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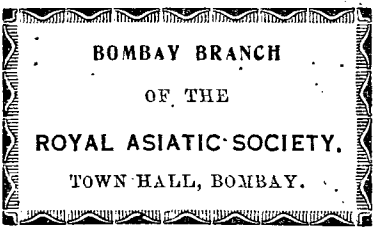

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THE

POCKET PENAL CODE.

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THE POCKET

PENAL, CRIMINAL PROCEDURE, AND POLICE CODES;

ALSO

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THE RAILWAY ACT.

THE PRISONERS' ACT.

THE PRISONERS' TESTIMONY ACT.

THE WHIPPING ACT.

THE BREACH OF CONTRACT ACT.

THE FOREIGN EXTRADITION ACT.

THE INDIAN EXTRADITION ACT.

WITH GENERAL INDEX.

JJH 639

BOMBAY BRANCH ROYAL ASIATIC SOCIETY
JACKSON MEMORIAL COLLECTION.

Calcutta:
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1898.

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THE INDIAN PENAL CODE,

BEING

ACT No. XLV OF 1860.*

[As modified up to 1st March, 1898.]

Passed by the Legislative Council of India.

(RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE 6TH OCTOBER, 1860.)

CHAPTER I.

INTRODUCTION.

WHEREAS it is expedient to provide a General Penal Code for British India; It is enacted as follows:—

1. *Title and extent of operation of the Code.*—This Act shall be called THE INDIAN PENAL CODE, and shall take effect† throughout the whole of the territories‡ which are or may become vested in Her Majesty by the Statute 21 & 22 Victoria,

* All offences under the Indian Penal Code are to be enquired into and tried according to the provisions of the Code of Criminal Procedure, 1882—see Act X of 1882, ss. 5, 28. As to offences which may be tried summarily, see the same Act, ss. 260, 261. For Act X of 1882 see the revised edition, as modified up to the 15th December, 1888, published by the Legislative Department.

The Indian Penal Code is superseded by Reg. V of 1872, s. 11 (in Bombay Code, Vol. I, Ed. 1894, p. 274), in so far as that Regulation is inconsistent with it.

† Portion repealed by Act XII of 1891 is omitted.

‡ The Indian Penal Code has been applied to offences committed before the 1st January, 1862, in the Punjab (see Act IV of 1872, s. 39, a revised edition of which as modified up to 1st July, 1891, has been published by the Legislative Department) and Ajmere-Merwara, see Reg III of 1877, s. 29 (in Ajmere Code, Ed. 1893, p. 192).

It has been declared in force—

in the Santhal Pargahas, by Reg. III of 1872, s. 3, as amended by Reg. III of 1886 (in Bengal Code, Vol. I, Ed. 1889, p. 597),

Chapter 106,* entitled "An Act for the better government of India."†

2. *Punishment of offences committed within the said territories.*—Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said territories.†

3. *Punishment of offences committed beyond, but which by law may be tried within, the territories.*—Any person liable, by any law passed by the Governor-General of India in Council, to be tried for an offence committed beyond the limits of the said territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said territories in the same manner as if such act had been committed within the said territories.

‡" 4. *Extension of Code to extra-territorial offences.*—The provisions of this Code apply also to any offence committed by—

(1) any Native Indian subject of Her Majesty in any place without and beyond British India ;

(2) any other British subject within the territories of any Native Prince or Chief in India ;

(3) any servant of the Queen, whether a British subject or not within the territories of any Native Prince or Chief in India.

Explanation.—In this section the word 'offence' includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

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in the Arakan-Hill District, by Reg. IX of 1874, s. 3 (in Burma Code, Ed. 1889, p. 354),

in Upper Burma generally, except the Shan States, by Act XX of 1886, s. 6 (in Burma Code, Ed. 1889, p. 364),

in British Baluchistan, by Reg. I of 1890, s. 3 (in Baluchistan Code, Ed. 1890, p. 69),

in Angul and the Khondmals, by Reg. I of 1894, s. 3, and

(with modifications) in Kachin Hill-tracts, as regards Hill-tribes, by Reg. I of 1895, s. 3.

It has been declared, under the Scheduled Districts Act, 1874, to be in force in the following Scheduled Districts, namely, the North-Western Provinces Tarai Districts—see *Gazette of India*, 23rd September, 1876, Part I, p. 505; and the Districts of Hazaribagh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom and the Kolhan in the District of Singbhoom—see *Gazette of India*, 22nd October, 1881, Part I, p. 504.

* Printed in the "Collection of Statutes relating to India," Ed. 1881. Vol. II, p. 651. May now be cited as the Government of India Act, 1858. [See the Short Titles Act, 1892 (55 Vict., c. 10).]

† Portion repealed by Act XII of 1891 is omitted. As to offences in territorial waters, see the Territorial Waters Jurisdiction Act, 1878 (41 and 42 Vict., c. 73).

‡ Act IV of 1898, s. 2.

Illustrations.

(*a.*) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found.

(*b.*) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(*c.*) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(*d.*) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder."

5. *Certain laws not to be affected by this Act.*—Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 & 4 William IV, Chapter 85,* or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said territories, or the inhabitants thereof; or any of the provisions of any Act† for punishing mutiny and desertion of officers and soldiers, in the service of Her Majesty‡ or of any special or local law.§

CHAPTER II.

GENERAL EXPLANATIONS.

6. *Definitions in the Code to be understood subject to exceptions.*—Throughout this Code, every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter ‖ entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

Illustrations.

(*a.*) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such

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* Printed in the "Collection of Statutes relating to India," Ed. 1881, Vol. I, p. 228. May now be cited as the Government of India Act, 1883, [See the Short Titles Act, 1892 (55 Vict., c. 10).]

† See now the Army Act, 44 & 45 Vict., c. 58 (printed in the "Supplement to the Collection of Statutes relating to India," Ed. 1881, p. 22), as continued and amended by subsequent annual Army Acts.

‡ Words repealed by Act XIV of 1870 are omitted.

§ A similar saving as to special and local laws was enacted in the Penal Code Amendment Act (XXVII) of 1870, s. 15. The amendments made by that Act have been noted in this edition.

‖ Chapter IV, *infra*.

offences; but the definitions are to be understood subject to the general exception * which provides that nothing shall be an offence which is done by a child under seven years of age.

(*b.*) A, a Police-officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception † which provides that "nothing is an offence which is done by a person who is bound by law to do it."

7. *Sense of expression once explained.*—Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

8. *Gender.*—The pronoun 'he' and its derivatives are used of any person, whether male or female.

9. *Number.*—Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

10. '*Man.*'—The word 'man' denotes a male human being of any age.

'*Woman.*'—The word 'woman' denotes a female human being of any age.

11. '*Person.*'—The word 'person' includes any Company or Association, or body of persons, whether incorporated or not.

12. '*Public.*'—The word 'public' includes any class of the public or any community.

13. '*Queen.*'—The word 'Queen' denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

14. '*Servant of the Queen.*'—The words 'servant of the Queen' denote all officers or servants continued, appointed or employed in India by or under the authority of the said Statute 21 & 22 Victoria, Chapter 106, ‡ entitled "An Act for the better government of India," or by or under the authority of the Government of India or any Government.

15. '*British India.*'—The words 'British India' denote the territories which are or may become vested in Her Majesty by the said Statute 21 & 22 Victoria, Chapter 106,‡ entitled "An Act for the better government of India."§

16. '*Government of India.*'—The words 'Government of India' denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General

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* In s. 82, *infra*.

† In s. 76, *infra*.

‡ Printed in the "Collection of Statutes relating to India," Ed. 1881, Vol. II, p. 651.

§ Words repealed by Act XII of 1891 are omitted.

of India alone, as regards the powers which may be lawfully exercised by them or him respectively.

17. '*Government.*'—The word 'Government'* denotes the person or persons authorized by law to administer executive Government in any part of British India.

18. '*Presidency.*'—The word 'Presidency' denotes the territories subject to the Government of a Presidency.

19. '*Judge.*'—The word 'Judge' denotes not only every person who is officially designated as a Judge, but also every person

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(*a.*) A Collector exercising jurisdiction in a suit under Act X of 1859,† is a Judge.

(*b.*) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.

(*c.*) A member of a panchayat which has power, under Regulation VII, 1816‡ of the Madras Code, to try and determine suits, is a Judge.

(*d.*) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court is not a Judge.

20. '*Court of Justice.*'—The words 'Court of Justice' denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

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* But see s. 263A (4), *infra*.

† Act X of 1859 has been repealed in the Chota Nagpore Division of Bengal (except as to the District of Manbhoom and the Tributary Mahals) by Bengal Act I of 1879, and in the rest of Bengal (except as to Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885. It is now in force in the District of Manbhoom and part of the Jalpaiguri District in Bengal, and such parts of it as are not inconsistent with the portions of Act VIII of 1885 which have been extended to the Orissa Division are in force in that Division. Act X of 1859 is printed in the Bengal Code, Ed. 1889, Vol. I, p. 343.

Act X of 1859 has also been repealed in the North-Western Provinces (except as to certain Scheduled Districts) by Act XVIII of 1873, and in the Central Provinces by Act IX of 1883. In the North-Western Provinces for "Act X of 1859" the words and figures "the North-Western Provinces Rent Act, 1881," have been substituted—see Act XII of 1881, s. 2, in N.-W. P. and Oudh Code, Ed. 1892, p. 336.

‡ Mad. Reg. VII of 1816 has been repealed by Act III of 1873.

Illustration.

A panchayat acting under Regulation VII, 1816* of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. '*Public servant.*'—The words 'public servant'† denote a person falling under any of the descriptions hereinafter following, namely—

First.—Every Covenanted servant of the Queen ;

Second.—Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India or any Government ;

Third.—Every Judge ;

Fourth.—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant ;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

Eighth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience ;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract, on behalf of Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government or remuner-

* Mad. Reg. VII of 1816 has been repealed by Act III of 1873.

† Various other functionaries have by later Acts and Regulations been declared to be "public servants" for the purposes of the Indian Penal Code, *e.g.*, Examiners of the University of Allahabad, G. s. 18 (1) of the Allahabad University Act (XVIII of 1887).

ated by fees or commission for the performance of any public duty ;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words 'public servant' occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

22. '*Moveable property.*'—The words 'moveable property' are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

23. '*Wrongful gain*'—'Wrongful gain' is gain by unlawful means of property to which the person gaining is not legally entitled.

'*Wrongful loss.*'—'Wrongful loss' is the loss by unlawful means of property to which the person losing it is legally entitled.

Gaining wrongfully.—A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully.

Losing wrongfully.—A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

24. '*Dishonestly.*'—Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing 'dishonestly.'

25. '*Fraudulently.*'—A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

26. '*Reason to believe.*'—A person is said to have 'reason to believe' a thing if he has sufficient cause to believe that thing but not otherwise.

27. *Property in possession of wife, clerk or servant.*—When property is in the possession of a person's wife, clerk or

servant, on account of that person, it is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

28. '*Counterfeit.*'—A person is said to 'counterfeit,' who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

**Explanation* 1.—It is not essential to counterfeiting that the imitation should be exact.

**Explanation* 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception whould thereby be practised.

29. '*Document.*'—The word 'document' denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustration.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-attorney is a document.

A map or plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures, or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile

* These Explanations were substituted for the original Explanation by Act I of 1889, s. 9.

usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words 'pay to the holder,' or words to that effect, had been written over the signature.

30. '*Valuable security.*'—The words 'valuable security' denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration.

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a 'valuable security.'

31. '*A will.*'—The words 'a will' denote any testamentary document.

32. *Words referring to acts include illegal omissions.*—In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

33. '*Act.*'—The word 'act' denotes as well a series of acts as a single act.

'*Omission.*'—The word 'omission' denotes as well a series of omissions as a single omission.

* 34. *Acts done by several persons in furtherance of common intention.*—When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

35. *When such an act is criminal by reason of its being done with a criminal knowledge or intention.*—Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

36. *Effect caused partly by act and partly by omission.*—Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

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* This section was substituted for the original s. 34 by Act XXVII of 1870, s. 1.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

37. *Co-operation by doing one of several acts constituting an offence.*—When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations.

(*a.*) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison, according to the agreement, with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence, though their acts are separate.

(*b.*) A and B are joint jailors, and, as such, have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(*c.*) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

38. *Persons concerned in criminal act may be guilty of different offences.*—Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

39. '*Voluntarily.*'—A person is said to cause an effect 'voluntarily,' when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act: yet, if he knew that he was likely to cause death, he has caused death voluntarily.

*40. '*Offence.*'—Except in the chapter and sections mentioned in clauses 2 and 3 of this section, the word 'offence' denotes a thing made punishable by this Code.

In Chapter IV and in the following sections, namely, sections 64, 65, 66, 67, 71, †, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388. 389 and 445, the word 'offence' denotes a thing punishable under this Code, or under any special or local law as hereinafter‡ defined:

And in sections 141, 176, 177, 201, 202, 212, 216 and 441, the word 'offence' has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

41.* '*Special law.*'—A 'special law' is a law applicable to a particular subject.

42. '*Local law.*'—A 'local law' is a law applicable only to a particular part of British India.

43. '*Illegal.*'—The word 'illegal' is applicable to everything which is an offence, or which is prohibited by law, or which furnishes ground for a civil action:

'*Legally bound to do.*'—And a person is said to be 'legally bound to do' whatever it is illegal in him to omit.

44. '*Injury.*'—The word 'injury' denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.

45. '*Life.*'—The word 'life' denotes the life of a human being, unless the contrary appears from the context.

46. '*Death.*'—The word 'death' denotes the death of a human being, unless the contrary appears from the context.

47. '*Animal.*'—The word 'animal' denotes any living creature other than a human being.

48. '*Vessel.*'—The word 'vessel' denotes anything made for the conveyance by water of human beings, or of property.

49. '*Year,*' '*month.*'—Wherever the word 'year' or the word 'month' is used, it is to be understood that the year

* This section was substituted for the original s. 40 by Act XXVII of 1870, s. 2.

† The figures 64, 65, 66 and 71 were inserted by Act VIII of 1882, s. 1, and the figures 67 by Act X of 1886, s. 21 (1).

‡ In ss. 41 and 42.

or the month is to be reckoned according to the British calendar.

50. '*Section.*'—The word 'section' denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.

51. '*Oath.*'—The word 'oath' includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

52. '*Good faith.*'—Nothing is said to be done or believed in 'good faith,' which is done or believed without due care and attention.

CHAPTER III.

OF PUNISHMENTS.

53. *Punishments.*—The punishments to which offenders are liable under the provisions of this Code are,—

First—Death ;

Secondly—Transportation ;

Thirdly—Penal servitude ;

Fourthly—Imprisonment,* which is of two descriptions, namely :—

(1) Rigorous, that is, with hard labour.

(2) Simple.

Fifthly—Forfeiture of property ;

Sixthly—Fine.†

54. *Commutation of sentence of death.*—In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which

* This definition of 'imprisonment' applies in the case of all Acts of the Governor-General in Council made after the 3rd January, 1868—see Act I of 1868, s. 2 (18), in General Acts, 1867-76, Ed. 1887, p. 18 ; also in the case of all Regulations under 33 Vict., c. 3, s. 1, made after the 14th January, 1887—see Act I of 1887, s. 10, in General Acts, 1885-88, Ed. 1889, p. 118.

† For power to pass sentence of fine in a case referred to a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14, in Punjab Code, Ed. 1888, p. 396, and Baluchistan Code, Ed. 1890, p. 57.

As to whipping generally, see Act VI of 1864 (a revised edition of which, as modified up to 1st March, 1895, has been published by the Legislative Department) ; in the Assam Hill Districts, see Reg. III of 1875 ; in Upper Burma, see Act XX of 1886, s. 7, cl. (*c*), and Sch. III (in Burma Code, Ed. 1889, pp. 365, 370) ; in the Punjab Frontier Districts and Baluchistan, see Reg. IV of 1887, ss. 8, 14 (2) (in Punjab Code, Ed. 1888, pp. 395, 397, and Baluchistan Code, Ed. 1890, pp. 55, 57).

the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

55. *Commutation of sentence of transportation for life.*—In every case in which sentence of transportation for life shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

56. *Sentence of Europeans and Americans to penal servitude.*—Whenever any person being an European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude, instead of transportation, according to the provisions of Act XXIV of 1855.*

Proviso as to sentence for term exceeding ten years, but not for life.—† Provided that, where an European or American offender would, but for such Act, be liable to be sentenced or ordered to be transported for a term exceeding ten years, but not for life, he shall be liable to be sentenced or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life.

57. *Fractions of terms of punishment.*—In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

58. *Offenders sentenced to transportation, how dealt with until transported.*—In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

59. *Transportation instead of imprisonment.*—In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

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* Printed in General Acts, 1834-66, Ed. 1887, p. 98.

† This proviso was added by Act XXVII of 1870, s. 3.

*60. *Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.*—In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

61. *Sentence of forfeiture of property.*—In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned.

Illustration.

A being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Government.

62. *Forfeiture of property, in respect of offenders punishable with death, transportation, or imprisonment.*—Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate, during the period of his transportation or imprisonment, shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

*63. *Amount of fine.*—Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

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* The provisions of ss. 63 to 70 apply to all fines imposed under the authority of any Act passed after the 3rd January, 1868, unless the Act contains an express provision to the contrary—see Act I of 1868, s. 5, in General Acts, 1867-76, Ed. 1887, p. 19.

As to the application of ss. 64 to 67 to offences under special or local laws, see s. 40, *supra*.

As to the application of ss. 60 and 63 to 74 to sentences passed in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, ss. 15 (2), 52, in Punjab Code, Ed. 1888, pp. 397, 405, and Baluchistan Code, Ed. 1890, pp. 57, 66.

*64. *Sentence of imprisonment for non-payment of fine.*—†In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable‡ with imprisonment or fine, or‡ with fine only, in which the offender is sentenced to a fine.†

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence.

*65. *Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.*—The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

*66. *Description of imprisonment for non-payment of fine.*—The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

*67. *Imprisonment for non-payment of fine, when offence punishable with fine only.*—If the offence be punishable with fine only, § the imprisonment which the Court imposes in default of payment of the fine shall be simple, and§ the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say,‖ for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.‖

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* See footnote * on last preceding page.

† These words were substituted for the original words by Act VIII of 1882, s. 3. They do not apply in the case of hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied—see Reg. I of 1895, ss. 1 (3) and 3.

‡ These words were inserted by Act X of 1886, s. 21 (2).

§ These words were inserted by Act VIII of 1882, s. 3.

‖ In the case of hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied, the following words have been substituted, namely :—

"For any term not exceeding four months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding eight months when the amount shall not exceed one hundred rupees, and for any term not exceeding twelve months in any other case"—see Reg. I of 1895, ss. 1 (3) and 3.

*68. *Imprisonment to terminate on payment of fine.*—The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

*69. *Termination of imprisonment on payment of proportional part of fine.*—If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred rupees, and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

*70. *Fine leviable within six years, or during imprisonment.*—The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period.

Death not to discharge property from liability.—And the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

*71. *Limit of punishment of offence made up of several offences.*—Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

† Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

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* See footnote * on page 14, *supra*.

† This clause was added by Act VIII of 1882, s. 4.

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.*

Illustrations.

(*a*.) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(*b*.) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

†72. *Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.*—In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

†73. *Solitary confinement.*—Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

A time not exceeding one month if the term of imprisonment shall not exceed six months.

A time not exceeding two months if the term of imprisonment shall exceed six months and‡ shall not exceed one‡ year.

A time not exceeding three months if the term of imprisonment shall exceed one year.

†74. *Limit of solitary confinement.*—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and, when the imprisonment awarded shall ex-

* This clause was added by Act VIII of 1882, s. 4.

† See footnote * on page 14, *supra*.

‡ These words were substituted for the original words by Act VIII of 1882, s. 5.

ceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

75. *Enhanced punishment for certain offences under Ch. XII or Ch. XVII after previous conviction.*—Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life,* or to imprisonment of either description for a term which may extend to ten years. * †

CHAPTER IV.‡

GENERAL EXCEPTIONS.

76. *Act done by a person bound, or by mistake of fact believing himself bound by law.*—Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations.

(*a.*) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(*b.*) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

77. *Act of Judge when acting judicially.*—Nothing is an offence which is done by a Judge when acting judicially in

* These words were substituted for the original words by Act X of 1886, s. 22.

† Section 75A, printed below, is applicable to hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied (see Reg. I of 1895, ss. 1 (3) and 3):—

"75A. Notwithstanding anything in this Code or in any other enactment for the time being in force, a person convicted of any offence punishable under this Code or under any other enactment shall be punishable with fine in lieu of or in addition to any other punishment to which he may be liable."

‡ Chapter IV applies to offences punishable under ss. 121A, 124A, 225A, 225B, 294A and 304A—see Act XXVII of 1870, s. 13, as amended by Act XII of 1891.

As to the application of Chapter IV to offences under special or local laws, see s. 40, *supra*.

the exercise of any power which is, or which in good faith he believes to be, given to him by law.

78. *Act done pursuant to the judgment or order of Court.*—Nothing which is done in pursuance of, or which is warranted by the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

79. *Act done by a person justified, or by mistake of fact believing himself justified, by law.*—Nothing is an offence which is done by any person who is justified by law, or who, by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be justified by law, in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise to the best of his judgment, exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. *Accident in doing a lawful act.*—Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means, and with proper care and caution.

Illustrations.

A is at a work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. *Act likely to cause harm, but done without criminal intent, and to prevent other harm.*—Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations.

(*a.*) A, the Captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B with twenty

or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.

(*b.*) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

82. *Act of a child under 7 years of age.*—Nothing is an offence* which is done by a child under seven years of age.

83. *Act of a child above 7 and under 12 of immature understanding.*—Nothing is an offence* which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

84. *Act of a person of unsound mind.*—Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

85. *Act of a person incapable of judgment by reason of intoxication caused against his will.*—Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

86. *Offence requiring a particular intent or knowledge committed by one who is intoxicated.*—In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

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* See, however, the Indian Railways Act, IX of 1890, s. 130, as to offence committed by children against certain provisions of that Act. (For Act IX of 1890 see the revised edition, as modified up to 1st May, 1896, published by the Legislative Department.)

*87. *Act not intended and not known to be likely to cause death or grievous hurt done by consent.*—Nothing, which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death, or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

*88. *Act not intended to cause death, done by consent in good faith for person's benefit.*—Nothing, which is not intended to cause death, is an offence by reason of any harm, which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit† it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent, A has committed no offence.

*89. *Act done in good faith for benefit of child or insane person, by or by consent of guardian.*—Nothing which is done in good faith for the benefit‡ of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person: Provided—

Provisos.—First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

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* For exception to ss. 87, 88, 89, see s. 91, *infra*.
† As to meaning of 'benefit,' see s. 92, Expl., *infra*.
‡ As to meaning of 'benefit,' see s. 92, Expl., *infra*.

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt ; or the curing of any grievous disease or infirmity ;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity ;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

90. *Consent known to be given under fear or misconception.*—A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception ; or

Consent of insane person.—If the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent ; or,

Consent of child.—Unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

91. *Exclusion of acts which are offences independently of harm caused.*—The exceptions in sections 87 and 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm" ; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92. *Act done in good faith for benefit of a person without consent.*—Nothing is an offence by reason of any harm which it may cause to a person for whose benefit* it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit : Provided—

Provisos.—First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death ;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity ;

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt ;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(*a.*) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(*b.*) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(*c.*) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(*d.*) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

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* As to meaning of 'benefit,' see Expl. below.

93. *Communication made in good faith.*—No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. *Act to which a person is compelled by threats.*—Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

95. *Act causing slight harm.*—Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

OF THE RIGHT OF PRIVATE DEFENCE.

96. *Things done in private defence.*—Nothing is an offence which is done in the exercise of the right of private defence.

97. *Right of private defence of the body and of property.*—Every person has a right, subject to the restrictions contained in section 99, to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body;

Secondly.—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an

offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

98. *Right of private defence against the act of a person of unsound mind, etc.*—When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

(*a*.) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(*b*.) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

99. *Acts against which there is no right of private defence.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has

reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

100. *When the right of private defence of the body extends to causing death.*—The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :—

First.—Such an assault, as may reasonably cause the apprehension that death will otherwise be the consequence of such assault ;

Secondly.—Such an assault, as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault ;

Thirdly.—An assault with the intention of committing rape ;

Fourthly.—An asault with the intention of gratifying unnatural lust ;

Fifthly.—An assault with the intention of kidnapping or abducting ;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. *When such right extends to causing any harm other than death.*—If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99 to the voluntary causing to the assailant of any harm other than death.

102. *Commencement and continuance of the right of private defence of the body.*—The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed ; and it continues as long as such apprehension of danger to the body continues.

103. *When the right of private defence of property extends to causing death.*—The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the

wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

First.—Robbery ;

Secondly.—House-breaking by night ;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property ;

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

104. *When such right extends to causing any harm other than death.*—If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

105. *Commencement and continuance of the right of private defence of property.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night, continues as long as the house-trespass which has been begun by such house-breaking continues.

106. *Right of private defence against deadly assault when there is risk of harm to innocent person.*—If, in the excercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so

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situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V.*

OF ABETMENT.

107. *Abetment of a thing.*—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

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*Chapter V applies to offences punishable under ss. 121A, 124A, 225A, 225B, 294A and 304A—see Act XXVII of 1870, s. 13, as amended by Act XII of 1891.

The definition of "abet" here given applies in the case of all Acts of the Governor-General in Council, and Regulations under 33 Vict., c. 3, s. 1, made after the 14th January, 1887—see Act I of 1887, ss. 3 (1), 10, in General Acts, 1885-88, Ed. 1889, pp. 116, 118.

As to the application of ss. 109, 110, 112, 114 to 117, to offences under special or local laws, see s. 40, *supra*.

The abetment of certain offences is compoundable—see Act X of 1882, s. 345.

108. *Abettor.*—A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(*a.*) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(*b.*) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound, A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(*a.*) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(*b.*) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(*c.*) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(*d.*) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

*"108A. *Abetment in British India of offences outside it.*—A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India.

Illustration.

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder."

109. *Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.*—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(*a*.) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in s. 161.

* Act IV of 1898, s. 3.

(*b.*) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(*c.*) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Procedure:

Police may arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.

Summons or warrant shall ordinarily issue in the first instance according as provided for offence abetted.

Bailable or not, according as the offence abetted is.

Compoundable or not, according as the offence abetted is.

Court by which the offence abetted is triable.

110. *Punishment of abetment if person abetted does act with different intention from that of abettor.*—Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Procedure: As for s. 109.

111. *Liability of abettor when one act abetted and different act done.*—When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Proviso.—Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations.

(*a.*) A instigates a child to put poison into the food of Z and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(*b.*) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(*c*.) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Procedure: As for s. 109.

112. *Abettor when liable to cumulative punishment for act abetted and for act done.*—If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

113. *Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.*—When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect provided he knew that the act abetted was likely to cause that effect.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

Procedure: As for s. 109.

114. *Abettor present when offence is committed.*—Whenever any person who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Procedure: As for s. 109.

115. *Abetment of offence punishable with death or transportation for life, if offence not committed.*—Whoever abets

the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

If act causing harm be done in consequence.—And if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years, and also to a fine; and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Procedure: Not bailable; but in other respects as for s. 109.

116. *Abetment of offence punishable with imprisonment, if offence be not committed.*—Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both;

If abettor or person abetted be a public servant whose duty it is to prevent offence.—And if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a.*) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(*b.*) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(*c.*) A, a Police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A

is liable to one-half of the longest term of imprisonment provided for that offence and also to fine.

(*d.*) B abets the commission of a robbery by A, a Police-officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

Procedure: As for s. 109.

117. *Abetting commission of offence by the public, or by more than ten persons.*—Whoever abets the commission of an offence, by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

Procedure : As for s. 109.

118. *Concealing design to commit an offence punishable with death or transportation for life.*—Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall—

If offence be committed.—If that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years ; or,

If offence be not committed.—If the offence be not committed, with imprisonment of either description for a term which may extend to three years ; and in either case shall also be liable to fine.

Illustration.

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

Procedure : Not bailable ; but in other respects as for s. 109.

119. *Public servant concealing design to commit offence which it is his duty to prevent.*—Whoever, being a public servant, intending to facilitate or knowing it to be likely that

he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall—

If offence be committed.—If the offence be committed, be punished with imprisonment of any description provided for the offence for a term which may extend to one-half of the longest term of such imprisonment or with such fine as is provided for that offence, or with both ; or,

If offence be punishable with death, etc.—If the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years ; or,

If offence be not committed.—If the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Illustration.

A, an officer of Police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

Procedure : As for s. 109 ; but *if the offence be punishable with death or transportation*, then not bailable.

120. *Concealing design to commit offence punishable with imprisonment.*—Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall—

If offence be committed.—If the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth ; and,

If offence be not committed—If the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Procedure : as for s. 109.

CHAPTER VI.*

OF OFFENCES AGAINST THE STATE.

121. *Waging or attempting to wage war, or abetting waging of war, against the Queen.*—Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

Illustrations.

(*a.*) A joins an insurrection against the Queen. A has committed the offence defined in this section.

(*b.*) A in India abets an insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session.

†121A. *Conspiracy to commit offences punishable by section* 121.—Whoever within or without British India conspires to commit any of the offences punishable by section 121, or to deprive the Queen of the sovereignty of British India or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of India or any Local Government, shall be punished with transportation for life or any shorter term, or with imprisonment of either description which may extend to ten years.

Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.

Procedure: As for s. 121.

122. *Collecting arms, etc., with intention of waging war against the Queen.*—Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of

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*All persons are bound to give information of offences punishable under ss. 121 to 126 or 130—see Act X of 1882, s. 44.

As to authority for instituting prosecutions under Chapter VI (except s. 127), see *ib.*, s. 196.

† Section 121A was inserted by Act XXVII of 1870, s. 4.

Chapters IV, V and XXIII of the Code apply to offences punishable under s. 121A—see Act XXVII of 1870, s. 13.

either description for a term not exceeding ten years, and shall forfeit all his property.

Procedure: As for s. 121.

123. *Concealing with intent to facilitate design to wage war.*—Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall be punished, with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 121.

124. *Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.*—Whoever, with the intention of inducing or compelling the Governor-General of India, or the Governor of any Presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor-General of India, or of the Council of any Presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor General, Governor, Lieutenant-Governor, or Member of Council,

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor-General, Governor, Lieutenant-Governor, or Member of Council,

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 121.

* "124A. *Sedition.*—Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression 'disaffection' includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their

* Act IV of 1898, s. 4.

alteration by lawful means, without exciting or attempting to exciting hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

Procedure: Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the first class specially empowered by the Local Government in that behalf; but in other respects as for s. 121.

125. *Waging war against any Asiatic Power in alliance with the Queen.*—Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the Queen or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added; or with fine.*

Procedure: As for s. 121.

126. *Committing depredation on territories of Power at peace with the Queen.*—Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.*

Procedure: As for s. 121.

127. *Receiving property taken by war or depredation mentioned in sections* 125 *and* 126.—Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Procedure: As for s. 121.

128. *Public servant voluntarily allowing prisoner of State of War to escape.*—Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for

* See also the Foreign Enlistment Act, 1870 (33 and 34 Vict., c. 90), which applies to the whole of Her Majesty's dominions.

a term which may extend to ten years, and shall also be liable to fine.

Procedure : As for s. 121.

129. *Public servant negligently suffering such prisoner to escape.*—Whoever, being a public servant and having the custody of any State prisoner or prisoner of war negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Procedure :
Bailable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.
In other respects as for s. 121.

130. *Aiding escape of, rescuing, or harbouring such prisoner.*—Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

Procedure : As for s. 121.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.*

131. *Abetting mutiny, or attempting to seduce a soldier or sailor from his duty.*—Whoever abets the committing of mutiny by an officer, soldier or sailor in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier, or sailor from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

* Also the Indian Marine Service—see s. 138A, *infra*.

*Explanation.**—In this section the words 'officer' and 'soldier' include any person subject to the Articles of War† for the better government of Her Majesty's Army, or to the Articles of War contained in Act No. V of 1869.‡

Procedure: Police may arrest without warrant. In other respects as for s. 121.

132. *Abetment of mutiny, if mutiny is committed in consequence thereof.*—Whoever abets the committing of mutiny by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 131.

133. *Abetment of assault by soldier or sailor on his superior officer, when in execution of his office.*—Whoever abets an assault by an officer, soldier or sailor in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure: As for s. 131; but also triable by Presidency Magistrate or Magistrate of the first class.

134. *Abetment of such assault if the assault is committed.*—Whoever abets an assault by an officer, soldier or sailor in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 131.

135. *Abetment of desertion of soldier or sailor.*—Whoever abets the desertion of any officer, soldier or sailor in the Army or Navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure:

Bailable.

Presidency Magistrate or Magistrate of the first or second class.

In other respects as for s. 131.

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* This Explanation was added by Act XXVII of 1870, s. 6.

† See now the Army Act (in the 'Supplement to the Collection of Statutes relating to India,' Ed. 1881, p. 22), as continued and amended by subsequent annual Army Acts.

‡ For Act V of 1869, see the revised edition, as modified up to 1st January, 1895, published by the Legislative Department.

136. *Harbouring deserter.*—Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier or sailor in the Army or Navy of the Queen, has deserted, harbours such officer, soldier or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Procedure: As for s. 135.

137. *Deserter concealed on board merchant vessel through negligence of master.*—The master or person in charge of a merchant vessel, on board of which any deserter from the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
In other respects as for s. 135.

138. *Abetment of act of insubordination by soldier or sailor.*—Whoever abets what he knows to be an act of insubordination by an officer, soldier or sailor in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
In other respects as for s. 135.

*138A. *Application of foregoing sections to the Indian Marine Service.*—The foregoing sections of this Chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen.

Procedure: As for s. 135.

139. *Persons subject to Articles of War.*—No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this chapter.

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* Section 138A was inserted by Act XIV of 1887, s. 79.

140. *Wearing garb or carrying token used by soldier.*—Whoever, not being a soldier in the Military or Naval Service of the Queen, wears any garb or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Procedure:
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Any Magistrate.

CHAPTER VIII.*

OF OFFENCES AGAINST THE PUBLIC TRANQUILITY.

141. *Unlawful assembly.*—An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency or any Lieutenant-Governor, or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law, or of any legal process; or

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

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* As to duty to give information of offences punishable under ss. 143, 144, 145, 147 or 148, see Act X of 1882, ss. 44 and 45, as amended by Act X of 1894.

As to the application of s. 141 to offences under special or local laws, see s. 40, *supra*.

As to punishment for an offence under s. 148, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 (in Punjab Code, Ed. 1888, p. 396; Baluchistan Code, Ed. 1890, p. 57).

As to dispersion of unlawful assemblies, see Act X of 1882, Chapter IX. (For Act X of 1882, see the revised edition, as modified up to the 15th December, 1888, published by the Legislative Department.)

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

142. *Being member of unlawful assembly.*—Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

143. *Punishment.*—Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Any Magistrate.

144. *Joining unlawful assembly armed with deadly weapon.*—Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure :
Warrant shall ordinarily issue in the first instance.
In other respects as for s. 143.

145. *Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.*—Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 144.

146. *Rioting.*—Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

147. *Punishment for rioting.*—Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 144.

148. *Rioting, armed with deadly weapon.*—Whoever is guilty of rioting, being armed with a deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 144; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first class.

149. *Every member of unlawful assembly guilty of offence committed in prosecution of common object.*—If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Procedure:
Police—according as arrest may be made without warrant for the offence, or not.
According as a summons or warrant may issue in the first instance for the offence.
Bailable or not, as the offence is.
Not compoundable.
Court by which the offence is triable.

150. *Hiring, or conniving at hiring, of persons to join unlawful assembly.*—Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Procedure:
Police may arrest without warrant.
Warrant or summons according to the offence committed by the person hired, &c.
In other respects as for s. 149.

151. *Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.*—Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

Procedure: As for s. 143.

152. *Assaulting or obstructing public servant when suppressing riot, etc.*—Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

153. *Wantonly giving provocation, with intent to cause riot.*—Whoever malignantly or wantonly, by doing anything which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall—

If rioting be committed.—If the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and

If not committed.—If the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Procedure:
If rioting be committed, warrant; *if not committed*, summons shall ordinarily issue in the first instance.
Any Magistrate.
In other respects as for s. 152.

* "153A. *Promoting enmity between classes.*—Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects shall be punished with imprisonment which may extend to two years, or with fine, or with both.

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* Act IV of 1898, s. 5.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects."

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first class.

154. *Owner or occupier of land on which an unlawful assembly is held.*—Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees,

if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police station,

and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

155. *Liability of person for whose benefit riot is committed.*—Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such

assembly or riot from taking place, and for suppressing and dispersing the same.

Procedure: As for s. 154.

156. *Liability of agent of owner or occupier for whose benefit riot is committed.*—Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Procedure: As for s. 154.

157. *Harbouring persons hired for an unlawful assembly.*—Whoever harbours, receives or assembles in any house or premises in his occupation, or charge, or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Procedure:
Police may arrest without warrant.
In other respects as for s. 154.

158. *Being hired to take part in an unlawful assembly or riot.*—Whoever is engaged or hired, or offers or attempts to be hired, or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both;

Or to go armed.—And whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 157.

159. *Affray.*—When two or more persons by fighting in a public place disturb the public peace, they are said to 'commit an affray.'

Procedure: As for s. 157; but *if hired to go armed*, warrant shall ordinarily issue in the first instance.

160. *Punishment for committing affray.*—Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Any Magistrate.

CHAPTER IX.*

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161. *Public servant taking gratification other than legal remuneration in respect of an official act.*—Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanation.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

'Gratification.' The word 'gratification' is not restricted to pecuniary gratifications, or to gratifications estimable in money.

* As to authority for institution of prosecutions against certain public servants, see Act X of 1882, s. 197. (For Act X of 1882, see the revised edition, as modified up to the 15th December, 1888, published by the Legsilative Department.)

'Legal remuneration.' The words 'legal remuneration' are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government* which he serves to accept.

'A motive or reward for doing.' A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a.*) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(*b.*) A, holding the office of Resident at the Court of a subsidiary Power, accepts a lakh of rupees from the Minister of that Power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the British Government. But it does appear that A accept the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.

(*c.*) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

162. *Taking gratification, in order, by corrupt or illegal means, to influence public servant.*—Whoever accepts, or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any

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* The word 'Government' in the definition of 'legal remuneration' includes—

a Court of Wards, for the purposes of s. 12 (2) of the Central Provinces Government Wards Act, 1885 (see Act XVII of 1885, s. 12, in Central Provinces Code, Ed. 1891, p. 273);

the Senate of the Allahabad University, for the purposes of s. 18 (1) of the Allahabad University Act, 1887—see Act XVIII of 1887, s. 18 (2), in North-Western Provinces and Oudh Code, Ed. 1892, p. 696;

an employer of a railway servant as such for the purposes of s. 137 (1) of the Indian Railways Act, 1890—see Act IX of 1890, s. 137 (2). (For Act IX of 1890, see the revised edition, as modified up to 1st May, 1896, published by the Legislative Department.

official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor,* or with any member of the Senate of the Allahabad University,* or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 161.

163. *Taking gratification for exercise of personal influence with public servant.*—Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor,* or with any member of the Senate of the Allahabad University,* or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustrations.

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust; are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

Procedure: As for s. 161; but triable by Presidency Magistrate or Magistrate of the first class.

164. *Punishment for abetment by public servant of offences defined in section* 162 *or* 163.—Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

* These words were inserted by Act XVIII of 1887, s. 18 (2) (in North-Western Provinces and Oudh Code, Ed. 1892, p. 696).

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 161; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first class.

165. *Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant.*—Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate,

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(*b.*) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(*c.*) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Procedure: As for s. 161; but triable by Presidency Magistrate or Magistrate of the first or second class.

166. *Public servant disobeying law, with intent to cause injury to any person.*—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Procedure: As for s. 165.

167. *Public servant framing an incorrect document with intent to cause injury.*—Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 161.

168. *Public servant unlawfully engaging in trade.*—Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 163.

169. *Public servant unlawfully buying or bidding for property.*—Whoever, being a public servant, and being legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Procedure: As for s. 163.

170. *Personating a public servant.*—Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable
Any Magistrate.

171. *Wearing garb or carrying token used by public servant with fraudulent intent.*—Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Procedure: As for s. 170; but, instead of warrant, summons shall ordinarily issue in the first instance.

CHAPTER X.*

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172. *Absconding to avoid service of summons or other proceeding.*—Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, or notice, or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Any Magistrate.

173. *Preventing service of summons or other proceeding or preventing publication thereof.*—Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice, or order proceeding from any

* As to the application of ss. 176, 177, 187 to offences under special or local laws, see s. 40, *supra*.

As to authority for instituting prosecutions under ss. 172 to 188, see Act X of 1882, s. 195, cl. (*a*). (For Act X of 1882, see the revised edition, as modified up to the 15th December, 1888, published by the Legislative Department.)

As to procedure in case of offences described in ss. 175, 178, 179, 180, see Act X of 1882, ss. 480, 481, 482, and Act XV of 1882, Chapter XII. (For Act XV of 1882, see the revised edition, as modified up to 1st February, 1895, published by the Legislative Department.)

public servant legally competent, as such public servant, to issue such summons, notice, or order,

or intentionally prevents the lawful affixing to any place of any such summons, notice, or order,

or intentionally removes any such summons, notice, or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice, order, or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 172; but triable by Presidency Magistrate or Magistrate of the first or second class.

174. *Non-attendance in obedience to an order from public servant.*—Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations:

(*a.*) A being legally bound to appear before the Supreme Court at Calcutta, in obedience to a subpœna issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(*b.*) A being legally bound to appear before a Zila Judge, as a witness, in obedience to a summons issued by that Zila Judge, intentionally omits to appear. A has committed the offence defined in this section.

Procedure: As for s. 172.

175. *Omission to produce document to public servant by person legally bound to produce it.*—Whoever, being legally bound to produce or deliver up any document to any public

servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration.

A, being legally bound to produce a document before a Zila Court intentionally omits to produce the same. A has committed the offence defined in this section.

Procedure: As for s. 172; but triable by the Court in which the offence is committed, subject to the provisions of chap. xxxv, C. C. P. ; or *if not committed in a Court*, a Presidency Magistrate or Magistrate of the first or second class.

176. *Omission to give notice or information to public servant by person legally bound to give it*.—Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the notice or information required to be given respects the commission of an offence,* or is required for the purpose of preventing the commission of an offence,* or in order to the apprehension of an offender,* with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 173.

177. *Furnishing false information*.—Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ;

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either

* As to meaning of 'offence' and 'offender,' see s. 177, Expl., *infra*.

description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(*b.*) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound, under clause 5, section VII, Regulation III, 1821,* of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police-station, wilfully misinforms the Police-officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section.

† *Explanation.*—In section 176 and in this section the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word 'offender' includes any person who is alleged to have been guilty of any such act.

Procedure: As for s. 173.

178. *Refusing oath or affirmation when duly required by public servant to make it.*—Whoever refuses to bind himself by an oath‡ or affirmation‡ to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 175.

179. *Refusing to answer public servant authorized to question.*—Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 175.

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* Ben. Reg. III of 1821 was repealed by Act XVII of 1862.

† This Explanation was added by Act III of 1894, s. 5.

‡ These words were inserted by Act X of 1873, s. 15.

180. *Refusing to sign statement.*—Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term* which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Procedure: As for s. 175.

181. *False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.*—Whoever, being legally bound by an oath* or affirmation* to state the truth on any subject to any public servant or other person authorized by law to administer such oath* or affirmation,* makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

† 182. *False information, with intent to cause public servant to use his lawful power to the injury of another person.*—Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(*a*) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(*b*) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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* These words were inserted by Act X of 1873, s. 15.

† This section was substituted for the original s. 182 by Act III of 1895, s. 1.

Illustrations.

(*a.*) A informs a Magistrate that Z, a Police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(*b.*) A falsely informs a public servant that Z has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(*c.*) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the Police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

Procedure: As for s. 173.

183. *Resistance to taking of property by lawful authority of public servant.*—Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description, for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 173.

184. *Obstructing sale of property offered for sale by authority of public servant.*—Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Procedure: As for s. 173.

185. *Illegal purchase or bid for property offered for sale by authority of public servant.*—Whoever, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Procedure: As for s. 173.

186. *Obstructing public servant in discharge of public functions.*—Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Procedure: As for s. 173.

187. *Omission to assist public servant when bound by law to give assistance.*—Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Procedure: As for s. 173.

188. *Disobedience to order duly promulgated by public servant.*—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

and if such disobedience causes or tends to cause danger to human life, health, or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the

order which he disobeys, and that his disobedience produces, or is likely to produce harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

Procedure: As for s. 173.

189. *Threat of injury to public servant.*—Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Procedure: As for s. 173.

190. *Threat of injury to induce person to refrain from applying for protection to public servant.*—Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 173.

CHAPTER XI.*

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

191. *Giving false evidence.*—Whoever being legally bound by an oath or by any express provision of law to state the truth, or being bound by law to make a declaration upon any

* As to the application of ss. 194, 195, 201 to 203, 211 to 214, 216, 221 to 225 to offences under special or local laws, see s. 40, *supra*.

As to authority for instituting prosecutions under ss. 193 to 196, 199, 200, 205 to 211 or 228, see Act X of 1882, s. 195, cl. (*b*).

As to procedure in case of the offences described in ss. 193, 196, 199, 200 or 205 to 210, see Act XIV of 1882, s. 643, and in case of the offence described in s. 228, see Act X of 1882, ss. 480, 481, 482 and Act XV of 1882, Chap. XII. [For Acts X, XIV and XV of 1882 see the revised editions, as modified up to the 15th December, 1888, 1st July, 1888, and 1st February, 1895, respectively, published by the Legislative Department.]

subject, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, is said to give false evidence.

Explanation 1.—A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(*a.*) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(*b.*) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(*c.*) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z. A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(*d.*) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(*e.*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

192. *Fabricating false evidence.*—Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may

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As to whipping for offences punishable under s. 193, or defined in ss. 194, 195 or 211, see Act VI of 1864, ss. 4, 6 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department], and (in the Assam Hill Districts) Reg. III of 1875, s. 4.

As to punishment for offences under ss. 193 to 196, 201, 211, 212, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 (printed, Punjab Code, Ed. 1888, p. 396, and Baluchistan Code, Ed. 1890, p. 57).

cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said 'to fabricate false evidence.'

Illustrations.

(*a.*) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(*b.*) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(*c.*) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the Police are likely to search. A has fabricated false evidence.

193. *Punishment for false evidence.*—Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court-martial* is a judicial proceeding.†

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding,† though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement

* Words repealed by Act XIII of 1889 are omitted.

† For definition of 'judicial proceeding,' see Act X of 1882, s. 4, cl.(*d*).

which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Procedure :
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

194. *Giving or fabricating false evidence with intent to procure conviction of capital offence.*—Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital* by the law of British India or England* shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine ;

If innocent person be thereby convicted and executed.—And if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

Procedure :
Not bailable ; and triable by Court of Session.
In other respects as for s. 193.

195. *Giving or fabricating false evidence with intent to procure conviction of offence punishable with transportation or imprisonment.*—Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause any person to be convicted of an offence which* by the law of British India or England* is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

Procedure : As for s. 194 ; but bailable.

196. *Using evidence known to be false.*—Whoever corruptly uses or attempts to use as true or genuine evidence any

* These words were substituted for the original words by Act IX of 1890, s. 149.

evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Procedure:
Bailable or not, according as the offence of giving such evidence is.
In other respects as for s. 193.

197. *Issuing or signing false certificate.*—Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Procedure: As for s. 193.

198. *Using as true a certificate known to be false.*—Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Procedure: As for s. 193.

199. *False statement made in declaration which is by law receivable as evidence.*—Whoever, in any declaration* made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

Procedure: As for s. 193.

200. *Using as true such declaration knowing it to be false.*—Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200.

Procedure: As for s. 193.

201. *Causing disappearance of evidence of offence, or giving false information, to screen offender.*—Whoever, knowing

* As to meaning of 'declaration,' see s. 200, Expl.

or having reason to believe that an offence* has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall—

If a capital offence.—If the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and,

If punishable with transportation.—If the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and,

If punishable with less than ten years' imprisonment.—If the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

Procedure: As for s. 193; but triable exclusively by Court of Session *if a capital offence; if punishable with transportation for life*, or *imprisonment for ten years*, then by Court of Session, Presidency Magistrate or Magistrate of the first class: and *if punishable with less than ten years' imprisonment*, then by Presidency Magistrate, or Magistrate of the first class or Court by which the offence is triable.

202. *Intentional omission to give information of offence by person bound to inform.*—Whoever, knowing or having reason to believe that an offence* has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

* As to meaning of 'offence,' see s. 203, Expl., *infra*.

203. *Giving false information respecting an offence committed.*—Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**Explanation.*—In sections 201 and 202 and in this section the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

204. *Destruction of document to prevent its production as evidence.*—Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 203; but triable by Presidency Magistrate or Magistrate of the first class.

205. *False personation for purpose of act or proceeding in suit or prosecution.*—Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 193.

206. *Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.*—Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree

* This Explanation was added by Act III of 1894, s. 6.

or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 203.

207. *Fraudulent claim to property to prevent its seizure as forfeited or in execution.*—Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 203.

208. *Fraudulently suffering decree for sum not due.*—Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

Procedure: As for s. 204.

209. *Dishonestly making false claim in Court.*—Whoever fraudulently or dishonestly, or with intent to injure or annoy any person makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Procedure: As for s. 204.

210. *Fraudulently obtaining decree for sum not due.*—Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 204.

211. *False charge of offence made with intent to injure.*—Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 204; but *if offence charged be capital or punishable with transportation for life or with imprisonment for a term exceeding seven years*, triable exclusively by Court of Session.

212. *Harbouring offender.*—Whenever an offence has been committed, whoever harbours* or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him for legal punishment, shall—

If a capital offence.—If the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and

If punishable with transportation for life, or with imprisonment.—If the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and

if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punish-

* As to meaning of 'harbour,' see s. 216B, *infra*.

ed with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

* 'Offence' in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class; but *if punishable with imprisonment for one year and not for ten years*, triable by Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

†213. *Taking gift, etc., to screen an offender from punishment.*—Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall—

If a capital offence.—If the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and

If punishable with transportation for life, or with imprisonment.—If the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for

* This paragraph was inserted by Act III of 1894, s. 7.
† For Exception to s. 213, see s. 214, Exception, *infra*.

a term which may extend to three years, and shall also be liable to fine ; and

if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Procedure :
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session ; but *if punishable with transportation for life or with imprisonment for ten years*, triable by Court of Session, Presidency Magistrate or Magistrate of the first class ; *if with imprisonment for less than ten years*, by Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

214. *Offering gift or restoration of property in consideration of screening offender.*—Whoever gives or causes, or offers or agrees to give or cause any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall—

If a capital offence—If the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; and

If punishable with transportation for life, or with imprisonment.—If the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; and

if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

**Exception.*—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.

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* This Exception was substituted for the original Exception by Act VIII of 1882, s. 6.

[*Illustrations.*] *Repealed by Act X of* 1882.

Procedure: As for s. 213.

215. *Taking gift to help to recover stolen property, etc.*—Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: Presidency Magistrate or Magistrate of the first class; in other respects as for s. 213.

216. *Harbouring offender who has escaped from custody, or whose apprehension has been ordered.*—Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or

whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours* or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say—

If a capital offence.—If the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

If punishable with transportation for life, or with imprisonment.—If the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; and

if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

† 'Offence' in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would

* As to meaning of 'harbour,' see s. 216B, *infra*.

† This paragraph was inserted by Act X of 1886, s. 23.

have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881 *, or otherwise, liable to be apprehended or detained in custody in British India; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.†

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate or Magistrate of the first class; but *if punishable with imprisonment for one year and not for ten years*, then triable by Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

‡216A. *Penalty for harbouring robbers or dacoits.*—Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours § them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

Procedure: As for s. 216.

§ 216B. *Definition of 'harbour' in sections* 212, 216 *and* 216A.—In sections 212, 216 and 216A the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension.

217. *Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.*—

* Printed in the "Supplement to the Collection of Statutes relating to India," Ed. 1881, p. 130.
† This paragraph was inserted by Act X of 1886, s. 23.
‡ Sections 216A and 216B were inserted by Act III of 1894, s. 8.
§ As to meaning of 'harbour,' see s. 216B.

Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure :
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

218. *Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.*—Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure : As for s. 217 ; but warrant, instead of summons, shall ordinarily issue in the first instance, and triable exclusively by Court of Session.

219. *Public servant in judicial proceeding corruptly making report, etc., contrary to law.*—Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Procedure : As for s. 218.

220. *Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.*—Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to kee

persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Procedure : As for s. 218.

221. *Intentional omission to apprehend on the part of public servant bound to apprehend.*—Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with death ; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years ; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

Procedure : As for s. 218 ; but, *if punishable with transportation for life or imprisonment for ten years*, triable by Court of Session, Presidency Magistrate, or Magistrate of the first class ; and *if with imprisonment for less than ten years*, then by Presidency Magistrate or Magistrate of the first or second class.

222. *Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.*—Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence,* or lawfully committed to custody* intentionally omits to apprehend such person, or intentionally

* These words were inserted by Act XXVII of 1870, s. 8.

suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

with transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death ; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards ; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years,* or if the person was lawfully committed to custody.*

Procedure :

Police shall not arrest without warrant.

Warrant shall ordinarily issue in the first instance.

Not bailable ; but bailable *if under sentence of imprisonment for less than ten years, or lawfully committed to custody.*

Not compoundable.

Court of Session ; but *if under sentence of imprisonment for less than ten years, or lawfully committed to custody*, by Court of Session, Presidency Magistrate, or Magistrate of the first class.

223. *Escape from confinement or custody negligently suffered by public servant.*—Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence † or lawfully committed to custody, † negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 217.

224. *Resistance or obstruction by a person to his lawful apprehension.*—Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged, or of which he has been

* These words were added by Act XXVII of 1870, s. 8.

† These words were inserted by Act XXVII of 1870, s. 8.

convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance
In other respects, as for s. 217.

225. *Resistance or obstruction to lawful apprehension of another person.*—Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ; or,

if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; or,

if the person to be apprehended or rescued, or attempted to be rescued, is charged with, or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; or,

if the person to be apprehended or rescued, or attempted to be recued, is liable, under the sentence of a Court of Justice or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; or,

if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life, or imprisonment of either de-

scription for a term not exceeding ten years, and shall also be liable to fine.

Procedure :

Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.
If charged with an offence punishable with transportation for life, or imprisonment for ten years, not bailable, and triable by Court of Session, Presidency Magistrate, or Magistrate of the first class.
If charged with a capital offence ; or
If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for ten years or upwards ; or
If under sentence of death, same as above, but triable exclusively by Court of Session.

*225A. *Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for.*—Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

(*a*) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both ; and

(*b*) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Procedure :

Police shall not arrest without warrant.
Warrant for intentional omission or sufferance ; and summons for negligent omission or sufferance.
Bailable.
Not compoundable.
In cases of intentional omission or sufferance, Court of Session, Presidency Magistrate, or Magistrate of the first class.
In case of negligent omission or sufferance, Presidency Magistrate or Magistrate of the first or second class.

*225B. *Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.*—Who-

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* These ss. 225A and 225B were substituted by Act X of 1886, s. 24 (1), for the s. 225A which was inserted by Act XXVII of 1870, s. 9.

Chapters IV and V of the Code apply to offences punishable under ss. 225A and 225B—see Act XXVII of 1870, s. 13, as amended by Act XII of 1891.

ever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Procedure :

Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

226. *Unlawful return from transportation.*—Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

Procedure :

Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session.

227. *Violation of condition of remission of punishment.*—Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Procedure :

Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court by which the original offence was triable.

228. *Intentional insult or interruption to public servant sitting in judicial proceeding.*—Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a

term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure :
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court in which the offence is committed, subject to the provisions of Chap. XXXV of C. C. P.

229. *Personation of a juror or assessor.*—Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled, or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled, or sworn, or, knowing himself to have been so returned, empanelled, or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 228; but triable by Presidency Magistrate or Magistrate of the first class.

CHAPTER XII.*

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

230. †*'Coin' defined.*—Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.

‡*Queen's coin.*—Queen's coin is metal stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions, in order to be used as money; and metal which has been so stamped and issued shall continue to be the Queen's coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.

Illustrations.

(*a.*) Cowries are not coin.
(*b.*) Lumps of unstamped copper, though used as money, are not coin.
(*c.*) Medals are not coin, inasmuch as they are not intended to be used as money.

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*As to enhanced punishment for second conviction for certain offences under Chap. XII, see s. 75, *supra*.

†This paragraph was substituted for the original paragraph by Act XIX of 1872.

‡This paragraph was substituted for the original paragraph by Act VI of 1896, s. 1 (I).

(*d.*) The coin denominated as the Company's rupee is the Queen's coin.
(*e.*)* The 'Farukhabad' rupee, which was formerly used as money, under the authority of the Government of India, is Queen's coin although it is no longer so used.

231. *Counterfeiting coin.*—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session.

232. *Counterfeiting Queen's coin.*—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 231.

233. *Making or selling instrument for counterfeiting coin.*—Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure: As for s. 231; but triable *also* by Presidency Magistrate or Magistrate of the first class.

234. *Making or selling instrument for counterfeiting Queen's coin.*—Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 231.

* This illustration was added by Act VI of 1896, s. 1 (2).

235. *Possession of instrument or material for the purpose of using the same for counterfeiting coin.*—Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

If Queen's coin.—And if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 233; but *if Queen's coin*, triable exclusively by Court of Session.

236. *Abetting in India the counterfeiting out of India of coin.*—Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

Procedure: As for s. 231.

237. *Import or export of counterfeit coin.*—Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure: As for s. 233.

238. *Import or export of counterfeits of Queen's coin.*—Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows, or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 231.

239. *Delivery of coin, possessed with knowledge that it is counterfeit.*—Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Procedure: As for s. 233.

240. *Delivery of Queen's coin, possessed with knowledge that it is counterfeit.*—Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which, at the time when he became possessed of it, he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 233.

241. *Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.*—Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustration.

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

Procedure: As for s. 233; but triable by Presidency Magistrate or Magistrate of the first or second class.

242. *Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.*—Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof, that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure: As for s. 233.

243. *Possession of Queen's coin by person who knew it to be counterfeit when he became possessed thereof.*—Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of the Queen's coin, having known at the time when he became posses-

sed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 233.

244. *Person employed in mint causing coin to be of different weight or composition from that fixed by law.*—Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 231.

245. *Unlawfully taking coining instrument from mint.*—Whoever, without lawful authority, takes out of any mint, lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 231.

246. *Fraudulently or dishonestly diminishing weight or altering composition of coin.*—Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity, alters the composition of that coin.

Procedure: As for s. 233.

247. *Fraudulently or dishonestly diminishing weight or altering composition of Queen's coin.*—Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 233.

248. *Altering appearance of coin with intent that it shall pass as coin of different description.*—Whoever performs on

any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure : As for s. 233.

249. *Altering appearance of Queen's coin with intent that it shall pass as coin of different description.*—Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 233.

250. *Delivery of coin possessed with knowledge that it is altered.*—Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Procedure : A for s. 233

251. *Delivery of Queen's coin possessed with knowledge that it is altered.*—Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure : As for s. 233

252. *Possession of coin by person who knew it to be altered when he became possessed thereof.*—Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the

sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure : As for s 233.

253. *Possession of Queen's coin by person who knew it to be altered when he became possessed thereof.*—Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Procedure : As for s. 233.

254. *Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.*—Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

Procedure : As for s. 241.

255. *Counterfeiting Government stamp.*—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government* for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Procedure : As for s. 231 ; but bailable.

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*As to meaning of 'Government,' see s. 263A (4), *infra*.

256. *Having possession of instrument or material for counterfeiting Government stamp.*—Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government* for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 231 ; but bailable.

257. *Making or selling instrument for counterfeiting Government stamp.*—Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government* for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 231 ; but bailable.

258. *Sale of counterfeit Government stamp.*—Whoever sells, or offers for sale, any stamp which he knows, or has reason to believe to be a counterfeit of any stamp issued by Government* for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 231 ; but bailable.

259. *Having possession of counterfeit Government stamp.*—Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government * for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 233 ; but bailable.

260. *Using as genuine a Government stamp known to be counterfeit.*—Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government* for the purpose of revenue, shall be punished with imprison-

* As to meaning of 'Government,' see s. 263A (4), *infra*.

ment of either description for a term which may extend to seven years, or with fine, or with both.

Procedure : As for s. 233 ; but bailable.

261. *Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.*—Whoever fraudulently or with intent to cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government* for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure : As for s. 233 ; but bailable.

262. *Using Government stamp known to have been before used.*—Whoever fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government* for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 241 ; but bailable.

263. *Erasure of mark denoting that stamp has been used.*—Whoever fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government† for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 233 ; but bailable.

‡ 263A. *Prohibition of fictitious stamps.*—(1) Whoever—

(*a*) makes, knowingly utters, deals in, or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

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* As to meaning of 'Government,' see s. 263A (4), *infra*.

† As to meaning of 'Government,' see. s. 263A (4).

‡ Section 263A was added by Act III of 1895, s. 2.

(*b*) has in his possession, without lawful excuse, any fictitious stamp, or

(*c*) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

(3) In this section "fictitious stamp" means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word 'Government,' when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.

Procedure: As for s. 263; but triable by Presidency Magistrate or Magistrate of the first class.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.

264. *Fraudulent use of false instrument for weighing.*—Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

265. *Fraudulent use of false weight or measure.*—Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either de-

scription for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 264.

266. *Being in possession of false weight or measure.*—Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 264.

267. *Making or selling false weight or measure.*—Whoever makes, sells, or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 264.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

*268. *Public nuisance.*—A person is guilty of a public nuisance who does any act, or is guilty of an illegal omission which causes any common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage

269. *Negligent act likely to spread infection of disease dangerous to life.*—Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of

*The definition of 'public nuisance' here given applies in the case of all Acts of the Governor-General in Council and Regulations under 33 Vict., c. 3, s. 1, made after 14th January, 1887—see Act I of 1887, ss. 3 (10), 10, in General Acts, 1885-88, Ed. 1889, pp. 117, 118.

As to procedure in case of public nuisances, see Act X of 1882, Chapter X.

either description for a term which may extend to six months, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

270. *Malignant act likely to spread infection of disease dangerous to life.*—Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 269.

271. *Disobedience to quarantine rule.*—Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine,* or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails, and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Procedure :
Police shall not arrest without warrant.
In other respects, as for s. 269.

†272. *Adulteration of food or drink intended for sale.*—Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure : As for s. 271.

†273. *Sale of noxious food or drink.*—Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state

* For power to make rules relating to quarantine, see Act I of 1870, in General Acts, 1867-76, Ed. 1887, p. 136.

† For power to order destruction of the food or other thing in respect of which a conviction is had under ss. 272-275, see Act X of 1882, s. 521.

unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 271.

*274. *Adulteration of drugs.*—Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy, or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 271.

*275. *Sale of adulterated drugs.*—Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 271.

276. *Sale of drug as a different drug or preparation.*—Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 271.

277. *Fouling water of public spring or reservoir.*—Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which

* For power to order destruction of the food or other thing in respect of which a conviction is had under ss. 272-275, see Act X of 1882, s. 521.

it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five humdred rupees, or with both.

Procedure : As for s. 269 ; but triable by any Magistrate.

278. *Making atmosphere noxious to health.*—Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

Procedure :
Police shall not arrest without warrant.
In other respects, as for s. 277.

279. *Rash driving or riding on a public way.*—Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure : As for s. 277.

280. *Rash navigation of vessel.*—Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure : As for s. 269.

281. *Exhibition of false light, mark or buoy.*— Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session.

282. *Conveying person by water for hire in unsafe or overloaded vessel.*—Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any

vessel when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 269.

283. *Danger or obstruction in public way or line of navigation.*—Whoever, by doing any act, or omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

Procedure: As for s. 269.

284. *Negligent conduct with respect to poisonous substance.*—Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 271.

285. *Negligent conduct with respect to fire or combustible matter.*—Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 277.

286. *Negligent conduct with respect to explosive substance.*—Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to

guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 277.

287. *Negligent conduct with respect to machinery.*—Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 271.

288. *Negligent conduct with respect to pulling down or repairing buildings.*—Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 271.

289. *Negligent conduct with respect to animal.*—Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 277.

290. *Punishment for public nuisance in cases not otherwise provided for.*—Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

Procedure: As for s. 278.

291. *Continuance of nuisance after injunction to discontinue.*—Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Procedure: As for s. 269.

*292. *Sale, etc., of obscene books, etc.*—Whoever sells or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation or figure, or attempts, or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any representation sculptured, engraved, painted or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

Procedure: As for s. 269; but warrant shall ordinarily issue in the first instance.

*293. *Having in possession obscene book, etc., for sale or exhibition.*—Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Procedure: As for s. 292.

†294. *Obscene acts and songs.*—Whoever, to the annoyance of others,

(*a*) does any obscene act in any public place, or

(*b*) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Procedure: As for s. 292.

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*For power to order the destruction of copies of the thing in respect of which a conviction under s. 292 or s. 293 is had, see Act X of 1882, s. 521.

† This section was substituted for the original s. 294 by Act III of 1895, s. 3.

*294A. *Keeping lottery-office.*—Whoever keeps any office or place for the purpose of drawing any lottery not authorized by Government shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine which may extend to one thousand rupees.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Any Magistrate.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

295. *Injuring or defiling place of worship, with intent to insult the religion of any class.*—Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure:
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

296. *Disturbing religious assembly.*—Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 295.

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* Section 294A was inserted by Act XXVII of 1870, s. 10.

Chapters IV, V and XXIII of the Code apply to offences punishable under s. 294A—see Act XXVII of 1870, s. 13.

As to authority for instituting prosecutions under s. 294A, see Act X of 1882, s. 196.

297. *Trespassing on burial places, etc.*—Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 295.

*298. *Uttering words, etc., with deliberate intent to wound religious feelings.*—Whoever, with deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure:
Police shall not arrest without warrant.
Compoundable.
In other respects as for s. 295.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.†

299. *Culpable homicide.*—Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or

*Offences punishable under s. 298 are compoundable—see Act X of 1882, s. 345.

†As to duty to give information of offences punishable under s. 302, 303 or 304, see Act X of 1882, s. 44, as amended by Act III of 1894, s. 1. See also (as to offences punishable under s. 302 or 304) Act X of 1882, s. 45, as amended by Acts III and X of 1894, and (as to murder and culpable homicide not amounting to murder) Act X of 1882, s. 45, as amended for Burma by Reg. XIV of 1887, s. 4, and by Act III of 1889, s. 5.

with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations.

(*a.*) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(*b.*) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(*c.*) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

300. *Murder.*—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2*ndly.*—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3*rdly.*—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be in-

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As to whipping in Upper Burma for offences mentioned in ss. 302, 304, 307, see Act XX of 1886, s. 7, cl. (*c*), and Sch. III (in Burma Code, Ed. 1889, pp. 365, 370).

As to punishment for offences under ss. 302, 304, 307, 308, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 (in Punjab Code, Ed. 1888 p. 396, and Baluchistan Code, Ed. 1890, p. 57).

flicted is sufficient in the ordinary course of nature to cause death, or—

4thly.—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(*a.*) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(*b.*) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death or such bodily injury as in the ordinary course of nature would cause death.

(*c.*) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(*d.*) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

When culpable homicide is not murder. Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos* :—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

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*As to the application of these provisos in the case of causing hurt on provocation, see s. 335, Expl., *infra.*

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations.

(*a.*) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b.*) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c.*) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(*d.*) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(*e.*) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f.*) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A, believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the

due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

301. *Culpable homicide by causing death of person other than person whose death was intended.*—If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

302. *Punishment for murder.*—Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session.

303. *Punishment for murder by life-convict.*—Whoever, being under sentence of transportation for life, commits murder, shall be punished with death.

Procedure: As for s. 302.

304. *Punishment for culpable homicide not amounting to murder.*—Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act

by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death ;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death or to cause such bodily injury as is likely to cause death.

Procedure : As for s. 302.

* 304A. *Causing death by negligence.*—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate or Magistrate of the first class.

305. *Abetment of suicide of child or insane person.*—If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Procedure : As for s. 302.

306. *Abetment of suicide.*—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure : As for s. 302.

307. *Attempt to murder.*—Whoever does any act with such intention or knowledge and under such circumstances, that if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and, if hurt is caused to any person by such act, the

* Section 304A was inserted by Act XXVII of 1870, s. 12.
Chapters IV, V and XXIII of the Code apply to offences punishable under s. 304A—see Act XXVII of 1870, s. 13.

offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned.

* *Attempts by life-convicts.*—When any person offending under this section is under sentence of transportation for life, he may, if hurt is caused, be punished with death.*

Illustrations.

(*a.*) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(*b.*) A with the intention of causing the death of a child of tender years exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(*c.*) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of † the first paragraph of † this section.

(*d.*) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

Procedure: As for s. 302.

308. *Attempt to commit culpable homicide.*—Whoever does any act with such intention or knowledge, and under such circumstanees that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

Procedure: As for s. 302, but bailable.

309. *Attempt to commit suicide.*—Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year,‡ or with fine, or with both.‡

Procedure: As for s. 308; but triable by Presidency Magistrate or Magistrate of the first or second class.

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* This clause was added by Act XXVII of 1870, s. 11.

† These words were inserted by Act XII of 1891.

‡ These words were substituted for the original words by Act VIII of 1882, s. 7.

310. *Thug.*—Whoever at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug.

311. *Punishment.*—Whoever is a thug, shall be punished with transportation for life, and shall also be liable to fine.

Procedure: As for s. 302.

312. *Causing miscarriage.*—Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this section.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session.

313. *Causing miscarriage without woman's consent.*—Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 312; but not bailable.

314. *Death caused by act done with intent to cause miscarriage.*—Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

If act done without woman's consent.—And if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment abovementioned.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

Procedure: As for s. 313.

315. *Act done with intent to prevent child being born alive or to cause it to die after birth.*—Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Procedure: As for s. 313.

316. *Causing death of quick unborn child by act amounting to culpable homicide.*—Whoever does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

Procedure: As for s. 313.

317. *Exposure and abandonment of child under twelve years by parent or person having care of it.*—Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide as the case may be, if the child die in consequence of the exposure.

Procedure:
Police may arrest without warrant.
In other respects as for s. 312.

318. *Concealment of birth by secret disposal of dead body.*—Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with

imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 317; but triable also by Presidency Magistrate or Magistrate of the first or second class.

*Of Hurt.**

319. *Hurt.*—Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

320. *Grievous hurt.*—The following kinds of hurt only are designated as 'grievous':—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

321. *Voluntarily causing hurt.*—Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said 'voluntarily to cause hurt.'

322. *Voluntarily causing grievous hurt.*—Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said 'voluntarily to cause grievous hurt.'

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* As to the application of ss. 327-331 to offences under special or local laws, see s. 40, *supra*.

Offences punishable under ss. 323 and 334 are compoundable, and those punishable under ss. 324, 335, 337 and 338 may be compounded with the permission of the Court—see Act X of 1882, s. 345.

As to whipping in Upper Burma for offences mentioned in ss. 325, 326 327, 329, 333, see Act XX of 1886, s. 7, cl. (*c*), and Sch. III (in Burma Code, Ed. 1889, pp. 365, 370); in a Punjab Frontier District or in Baluchistan for offences punishable under ss. 325, 326, see Reg. IV of 1887, s. 8 (in Punjab Code, Ed. 1888, p. 395, and Baluchistan Code, Ed. 1890, p. 55).

As to punishment for offences under ss. 325, 326, 328, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 (in Punjab Code, Ed. 1888, p. 396, and Baluchistan Code, Ed. 1890, p. 57).

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt, and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow, which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. *Punishment for voluntarily causing hurt.*—Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Procedure :
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Any Magistrate.

324. *Voluntarily causing hurt by dangerous weapons or means.*—Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument, which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Compoundable when permission is given by the Court before which a prosecution is pending.
Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

325. *Punishment for voluntarily causing grievous hurt.*—Whoever, except in the case provided by section 335, voluntarily causes grievous hurt, shall be punished with imprison-

ment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 324.

326. *Voluntarily causing grievous hurt by dangerous weapons or means.*—Whoever, except in the case provided by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure:
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

327. *Voluntarily causing hurt to extort property, or to constrain to an illegal act.*—Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session.

328. *Causing hurt by means of poison, etc., with intent to commit an offence.*—Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating, or unwholesome drug, or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with

imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 327.

329. *Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.*—Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal, or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 327.

330. *Voluntarily causing hurt to extort confession, or to compel restoration of property.*—Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

(*a.*) A, a Police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(*b.*) A, a Police-officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(*c.*) A, a Revenue-officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(*d.*) A, a zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

Procedure: As for s. 327, but bailable.

331. *Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.*—Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the

sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 327.

332. *Voluntarily causing hurt to deter public servant from his duty.*—Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or defer that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

333. *Voluntarily causing grievous hurt to deter public servant from his duty.*—Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 327.

334. *Voluntarily causing hurt on provocation.*—Whoever voluntarily causes hurt on grave and sudden provocation,* if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or

* As to provocation, see s. 335, Expl.

with fine which may extend to five hundred rupees, or with both.

Procedure :
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Any Magistrate.

335. *Voluntarily causing grievous hurt on provocation.*—Whoever voluntarily* causes grievous hurt on grave and sudden provocation† if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Explanation.—The last two sections are subject to the same provisos as Exception 1, section 300

Procedure : As for s. 324.

336. *Act endangering life or personal safety of others.*—Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

Procedure :
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Any Magistrate.

337. *Causing hurt by act endangering life or personal safety of others.*—Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Procedure :
As for s. 324 ; but triable only by Presidency Magistrate or Magistrate of the first or second class.

338. *Causing grievous hurt by act endangering life or personal safety of others.*—Whoever causes grievous hurt to

* The word 'voluntarily' was inserted by Act VIII of 1882, s. 8.
† As to provocation, see s. 335, Expl.

any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 337.

Of Wrongful Restraint and Wrongful Confinement. *

339. *Wrongful restraint.*—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

340. *Wrongful confinement.*—Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said 'wrongfully to confine' that person.

Illustrations.

(*a.*) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b.*) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

341. *Punishment for wrongful restraint.*—Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Procedure:
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Any Magistrate.

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* As to the application of ss. 347, 348, to offences under special or local laws, see s. 40, *supra*.

Offences punishable under ss. 341, 342, are compoundable—see Act X of 1882, s. 345.

342. *Punishment for wrongful confinement.*—Whoever wrongfully confines any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 341; but triable by Presidency Magistrate, or Magistrate of the first or second class.

343. *Wrongful confinement for three or more days.*—Whoever wrongfully confines any person for three days, or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 342; but not compoundable.

344. *Wrongful confinement for ten or more days.*—Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure: As for s. 343; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

345. *Wrongful confinement of person for whose liberation writ has been issued.*—Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this chapter.

Procedure:
Police shall not arrest without warrant,
In other respects as for s. 344.

346. *Wrongful confinement in secret.*—Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

Procedure: As for s. 344.

347. *Wrongful confinement to extort property or constrain to illegal act.*—Whoever wrongfully confines any person for

the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure: As for s. 344.

348. *Wrongful confinement to extort confession, or compel restoration of property.*—Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure; As for s. 344; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first class.

*Of Criminal Force and Assault.**

349. *Force.*—A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling; provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of

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* Offences punishable under ss. 352, 355, 358 are compoundable—see Act X of 1882, s. 345.

As to whipping for an offence under s. 354, see Act VI of 1864, ss. 4, 6 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department] and (in the Assam Hill Districts), Reg. III of 1875, s. 4.

As to punishment for an offence under s. 354 enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 (in Punjab Code, Ed. 1888, p. 396, and in Baluchistan Code, Ed. 1890, p. 57).

motion, or cessation of motion in one of the three ways hereinafter described:

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change, or cessation of motion, takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

350. *Criminal force.*—Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(*a.*) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*b.*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

(*c.*) Z is riding in a palanquin. A, intending to rob Z, seizes the pole, and stops the palanquin. Here, A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(*d.*) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(*e.*) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water, and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(*f.*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g*.) Z is bathing. A pours into the bath water which he knows to be boiling. Here, A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force.

(*h*.) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

351. *Assault.*—Whoever makes any gesture, or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(*a*.) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b*.) A begins to unloose the muzzle of a ferocious dog, intending, or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c*.) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

352. *Punishment for assault or criminal force otherwise than on grave provocation.*—Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Procedure :
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Any Magistrate.

353. *Assault or criminal force to deter public servant from discharge of his duty.*—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done, or attempted to be done, by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

354. *Assault or criminal force to woman with intent to outrage her modesty.*—Whoever assaults or uses criminal force to any woman, intending to outrage, or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 353.

355. *Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.*—Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 352 ; but triable by Presidency Magistrate or Magistrate of the first or second class.

356. *Assault or criminal force in attempt to commit theft of property carried by a person.*—Whoever assaults or uses criminal force to any person, in attempting to commit theft on any

property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Any Magistrate.

357. *Assault or criminal force in attempt wrongfully to confine a person.*—Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Procedure : As for s. 356 ; but bailable.

358. *Assault or criminal force on grave provocation.*—Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Explanation.—The last section is subject to the same explanation as section 352.

Procedure : As for s. 352.

*Of Kidnapping, Abduction, Slavery and Forced Labour.**

359. *Kidnapping.*—Kidnapping is of two kinds : kidnapping from British India, and kidnapping from lawful guardianship.

360. *Kidnapping from British India.*—Whoever conveys any person beyond the limits of British India, without the consent of that person or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India.

361. *Kidnapping from lawful guardianship.*—Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person

* Offences punishable under s. 374 are compoundable—see Act X of 1882, s. 345.

As to punishment for offences under ss. 363 to 369, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 [in Punjab Code, Ed. 1888, p. 396, and in Baluchistan Code, Ed. 1890, p. 57].

of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words 'lawful guardian' in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. *Abduction.*—Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

363. *Punishment for kidnapping.*—Whoever kidnaps any person from British India, or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

364. *Kidnapping or abducting in order to murder.*—Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a.*) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(*b.*) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

Procedure: As for s. 353; but triable exclusively by Court of Session.

365. *Kidnapping or abducting with intent secretly and wrongfully to confine person.*—Whoever kidnaps or abducts any person with intent to cause that person to be secretly and

wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 364; but also triable by Presidency Magistrate or Magistrate of the first class.

366. *Kidnapping or abducting woman to compel her marriage, &c.*—Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 364.

367. *Kidnapping or abducting in order to subject person to grievous hurt, slavery, &c.*—Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 364.

368. *Wrongfully concealing or keeping in confinement kidnapped or abducted person.*—Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

Procedure: As for s. 364.

369. *Kidnapping or abducting child under ten years with intent to steal from its person.*—Whoever kidnaps or abducts any child under the age of ten years, with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 365.

370. *Buying or disposing of any person as a slave.*—Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session.

371. *Habitual dealing in slaves.*—Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Procedure: As for s. 364.

372. *Selling minor for purposes of prostitution, &c.*—Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 364; but triable *also* by Presidency Magistrate or Magistrate of the first class.

373. *Buying minor for purposes of prostitution, &c.*—Whoever buys, hires, or otherwise obtains possession of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 364; but triable *also* by Presidency Magistrate or Magistrate of the first class.

374. *Unlawful compulsory labour.*—Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description

for a term which may extend to one year, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Any Magistrate.

Of Rape.

375. *Rape.*—A man is said to commit 'rape,' who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under twelve† years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under twelve† years of age, is not rape.

376. *Punishment for rape.*—Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure :
If sexual intercourse was by a man with his own wife—
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.

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* As to whipping, see Act VI of 1864, ss. 4, 6 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department] ; (in the Assam Hill Districts) Reg. III of 1875, s. 4 ; and (in the Punjab Frontier Districts and Baluchistan) Reg. IV of 1887, s. 8 [in Punjab Code, Ed. 1888, p. 395, and in Baluchistan Code, Ed. 1890, p. 55].

As to punishment where an offence is enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 [in Punjab Code, Ed. 1888, p. 396, and in Baluchistan Code, Ed. 1890, p. 57].

† The word 'twelve was substituted for 'ten' by Act X of 1891, s. 1

Bailable.
Not compoundable.
Court of Session.

In any other case—
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session.

*Of Unnatural Offences.**

377. *Unnatural offences.*—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XVII.†

OF OFFENCES AGAINST PROPERTY.

Of Theft.‡

378. *Theft.*—Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

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* As to whipping, see Act VI of 1864, ss. 4, 6 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department], (in the Assam Hill Districts) Reg. III of 1875, s. 4, and (in the Punjab Frontier Districts and Baluchistan) Reg. IV of 1887, s. 8 [in Punjab Code, Ed. 1888, p. 395, and in Baluchistan Code, Ed. 1890, p. 55].

As to punishment where an offence is enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s 14.

† As to enhanced punishment for second conviction for certain offences under Chapter XVII, see s. 75, *supra*.

‡ As to duty to give information of offences punishable under s. 382, see Act X of 1882, s. 44, as amended by Act III of 1894, s. 1, and Act X of 1882, s. 45, as amended by Acts III and X of 1894.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(*a.*) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(*b.*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c.*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(*d.*) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e.*) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and

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As to whipping for offences under ss. 378, 380, 381, 382, see Act VI of 1864, ss. 2, 3 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department]; and (in the Assam Hill Districts) Reg. III of 1875, ss. 2, 3.

As to whipping for offences under s. 382 (in Upper Burma), see Act XX of 1886, s. 7, cl. (*c*) and Sch. III (in Burma Code, Ed. 1889, pp. 365, 370); (in the Punjab Frontier Districts and Baluchistan), see Reg. IV of 1887, s. 8.

As to punishment for offences under ss. 379-382, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14.

As to extortion by threat of accusation of an offence under s. 377, see ss. 388, 389, *infra*.

sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f*.) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g*.) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(*h*.) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(*i*.) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j*.) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k*.) Again if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l*.) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(*m*.) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n*.) A asks charity from Z's wife. She gives A money, food, and clothes which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o*.) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p*.) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

379. *Punishment for theft.*—Whoever commits theft shall be punished with imprisonment of either description for a

term which may extend to three years, or with fine, or with both.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Any Magistrate.

380. *Theft in dwelling house, &c.*—Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 379.

381. *Theft by clerk or servant of property in possession of master.*—Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 379; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

382. *Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.*—Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a.*) A commits theft on property in Z's possession; and, while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z, in case Z should resist. A has committed the offence defined in this section.

(*b.*) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

Procedure: As for s. 379; but triable by Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Extortion.

383. *Extortion.*—Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits 'extortion.'

Illustrations.

(*a.*) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b.*) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note, binding Z to pay certain moneys to A. Z signs and delivers the note. A has committed extortion.

(*c.*) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(*d.*) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

384. *Punishment for extortion.*—Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

385. *Putting person in fear of injury in order to commit extortion.*—Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear of any injury, shall be punished with imprisonment of either

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* As to the application of ss. 388, 389, to offences under special or local laws, see s. 40, *supra*.

As to whipping for offences defined in ss. 388, 389, see Act VI of 1864, ss. 2, 3 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department; and (in the Assam Hill Districts) Reg. III of 1875, ss. 2, 3.

As to whipping for offences defined in ss. 386, 387, in Upper Burma, see Act XX of 1886, s. 7, cl. (*c*), and Sch. III [in Burma Code, Ed. 1889, pp. 365, 370].

description, for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 384.

386. *Extortion by putting a person in fear of death or grievous hurt.*—Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure :
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance,
Not bailable.
Not compoundable.
Court of Session.

387. *Putting person in fear of death or of grievous hurt, in order to commit extortion.*—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 386.

388. *Extortion by threat of accusation of an offence punishable with death or transportation, etc.*—Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed, or attempted to commit, any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with transportation for life.

Procedure : As for s. 386 ; but bailable.

389. *Putting person in fear of accusation of offence, in order to commit extortion.*—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation against that person or any other of having committed, or attempted to commit, an offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may

extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with transportation for life.

Procedure: As for s. 388.

*Of Robbery and Dacoity.**

390. *Robbery.*—In all robbery there is either theft or extortion.

When theft is robbery.—Theft is 'robbery,' if, in order to the committing of the theft, or in committing the theft, or in carrying away, or attempting to carry away, property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death, or of instant hurt, or of instant wrongful restraint.

When extortion is robbery.—Extortion is 'robbery,' if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(*a.*) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

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* As to duty to give information of offences punishable under ss. 392 to 399 or 402, see Act X of 1882, s. 44, as amended by Act III of 1894, s. 1, and Act X of 1882, s. 45, as amended by Acts III and X of 1894. See also (as to dacoity and robbery), Act X of 1882, s. 45, as amended for Burma by Reg. XIV of 1887, s. 4, and by Act III of 1889, s. 5.

As to whipping for offences under ss. 390, 391, 393, 394, see Act VI of 1864, ss. 4, 6 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department]; and (in the Assam Hill Districts) Reg. III of 1875, s. 4; for offences under ss. 392-402 (in Upper Burma), see Act XX of 1886, s. 7, cl. (*c*), and Sch. III [in Burma Code, Ed. 1889, pp. 365, 370]; for offences under ss. 392-399 (in the Punjab Frontier Districts and in Baluchistan), see Reg. IV of 1887, s. 8 [in Punjab Code, Ed. 1888, p. 395, and in Baluchistan Code, Ed. 1890, p. 55].

As to punishment for offences under ss. 392-399, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14.

(*b.*) A meets Z on the high-road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(*c.*) A meets Z and Z's child on the high-road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(*d.*) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees." This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

391. *Dacoity.*—When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt amount to five or more, every person so committing, attempting or aiding, is said to commit 'dacoity.'

392. *Punishment for robbery.*—Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Procedure:

Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

393. *Attempt to commit robbery.*—Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 392.

394. *Voluntarily causing hurt in committing robbery.*—If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 392.

395. *Punishment for dacoity.*—Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 393; but triable exclusively by Court of Session.

396. *Dacoity with murder.*—If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 392; but triable exclusively by Court of Session.

397. *Robbery or dacoity, with attempt to cause death or grievous hurt.*—If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Procedure: As for s. 392; but triable exclusively by Court of Session.

398. *Attempt to commit robbery or dacoity when armed with deadly weapon.*—If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

Procedure: As for s. 392; but triable exclusively by Court of Session.

399. *Making preparation to commit dacoity.* — Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 392; but triable exclusively by Court of Session.

400. *Punishment for belonging to gang of dacoits.*—Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 392; but triable exclusively by Court of Session.

401. *Punishment for belonging to gang of thieves.*—Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 392.

402. *Assembling for purpose of committing dacoity.*—Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 395.

Of Criminal Misappropriation of Property.

403. *Dishonest misappropriation of property.*—Whoever dishonestly misappropriates or converts to his own use any moveable property shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A takes property belonging to Z out of Z's possession, in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(*b.*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(*c.*) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time, in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations.

(*a.*) A finds a rupee on the high-road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.

(*b.*) A finds a letter on the road, containing a bank-note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(*c.*) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(*d.*) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(*e.*) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(*f.*) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

Procedure:

Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Any Magistrate.

404. *Dishonest misappropriation of property possessed by deceased person at the time of his death.*—Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person

at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and, if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, *before* the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Procedure: As for s. 403; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

Of Criminal Breach of Trust.

405. *Criminal breach of trust.*—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

(*a*.) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(*b*.) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room. A dishonestly sells the goods. A has committed criminal breach of trust.

(*c*.) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(*d*.) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(*e*.) A, a Revenue-officer, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the

Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(*f.*) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Procedure: As for s. 404.

406. *Punishment for criminal breach of trust.*—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure:
Police may arrest without warrant
Warrant shall ordinarily issue in the first instance:
Not bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

407. *Criminal breach of trust by carrier, etc.*—Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 406; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first class.

408. *Criminal breach of trust by clerk or servant.*—Whoever, being a clerk or servant, or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 406.

409. *Criminal breach of trust by public servant, or by banker, merchant or agent.*—Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 407.

*Of the Receiving of Stolen Property.**

410. *Stolen property.*—Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated, or in respect of which† criminal breach of trust has been committed, is designated as 'stolen property,'‡ whether the transfer has been made, or the misappropriation or the breach of trust has been committed, within or without British India.‡ But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

411. *Dishonestly receiving stolen property.*—Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure :
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

412. *Dishonestly receiving property stolen in the commission of a dacoity.*—Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong, or to have belonged, to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with trans-

* As to whipping for the offence defined in s. 411, see Act VI of 1864, ss. 2, 3 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department]; and (in the Assam Hill Districts) Reg. III of 1875, ss. 2, 3; for the offence defined in s. 412, see *ibid*; also (in Upper Burma) Act XX of 1886, s. 7, cl. (*c*), and Sch. III [in Burma Code, Ed. 1889, pp. 365, 370]; for the offence defined in s. 413, see Act VI of 1864, ss. 4, 6, and (in the Assam Hill Districts) Reg. III of 1875, s. 4.

As to punishment for offences under ss. 411-414, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 [in Punjab Code, Ed. 1888, p. 396, and Baluchistan Code, Ed. 1890, p. 57].

† Words repealed by Act XII of 1891 and Act VIII of 1882, s. 9, respectively, are omitted.

‡ These words were inserted by Act VIII of 1882, s. 9.

portation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Procedure : As for s. 411 ; but triable exclusively by Court of Session.

413. *Habitually dealing in stolen property.*—Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure : As for s. 411 ; but triable exclusively by Court of Session.

414. *Assisting in concealment of stolen property.*—Whoever voluntarily assists in concealing or disposing of, or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure : As for s. 411.

Of Cheating.

415. *Cheating.*—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to 'cheat.'

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations.

(*a.*) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b.*) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(*c.*) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(*d.*) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be

dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e.*) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f.*) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(*g.*) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(*h.*) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(*i.*) A sells and conveys an estate to B, A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage-money from Z. A cheats.

416. *Cheating by personation.*—A person is said to 'cheat by personation,' if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(*a.*) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(*b.*) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

417. *Punishment for cheating.*—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure:

Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

418. *Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.*—Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound either by law, or by

a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 417; but triable *also* by Court of Session.

419. *Punishment for cheating by personation.*—Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure:
Police may arrest without warrant.
In other respects as for s. 418.

420. *Cheating and dishonestly inducing delivery of property.*—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for sec. 419; but triable by Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Fraudulent Deeds and Dispositions of Property.

421. *Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.*—Whoever dishonestly or fraudulently removes, conceals, or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 417.

422. *Dishonestly or fraudulently preventing debt being available for creditors.*—Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 421.

423. *Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.*—Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 421.

424. *Dishonest or fraudulent removal or concealment of property.*—Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure : As for s. 421.

*Of Mischief.**

425. *Mischief.*—Whoever, with intent to cause, or knowing that he is likely to cause wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property, or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits 'mischief.'

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is

* As to duty to give information of offences punishable under s. 435 or 436, see Act X of 1882, s. 44, as amended by Act III of 1894, and Act X of 1882, s. 45, as amended by Acts III and X of 1894.

Offences punishable under ss. 426, 427, are in certain cases compoundable—see *ibid.*, s. 345.

As to whipping in the Punjab Frontier Districts and Baluchistan for offences punishable under ss. 427-429, 435, 436, see Reg. IV of 1887, s. 8 [in Punjab Code, Ed. 1888, p. 395, and in Baluchistan Code, Ed. 1890, p. 55]; in Upper Burma for offences punishable under ss. 435, 436, 440, see Act XX of 1886, s. 7, cl. (*c*), and Sch. III [in Burma Code Ed. 1889, pp. 365, 370].

As to punishment for offences under ss. 427 to 429, 435, 436, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14.

sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a.*) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.

(*b.*) A introduces water into an ice-house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(*c.*) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d.*) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e.*) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(*f.*) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(*g.*) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h.*) A causes cattle to enter upon a field belonging to Z, intending to cause, and knowing that he is likely to cause, damage to Z's crop. A has committed mischief.

426. *Punishment for mischief.*—Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Compoundable when the only loss or damage caused is loss or damage to a private person.
Any Magistrate.

427. *Mischief causing damage to the amount of fifty rupees.*—Whoever commits mischief, and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 426; but warrant shall ordinarily issue in the first instance, and triable by Presidency Magistrate or Magistrate of the first or second class.

428. *Mischief by killing or maiming animal of the value of ten rupees.*—Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

429. *Mischief by killing or maiming cattle, &c., of any value or any animal of the value of fifty rupees.*—Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Procedure: As for s. 428; but triable *also* by Court of Session.

430. *Mischief by injury to works of irrigation, or by wrongfully diverting water.*—Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Procedure: As for s. 429.

431. *Mischief by injury to public road, bridge, river or channel.*—Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Procedure: As for s. 429.

432. *Mischief by causing inundation or obstruction to public drainage attended with damage.*—Whoever commits mischief by doing any act which causes, or which he knows to be likely

to cause, an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Procedure: As for s. 429.

433. *Mischief by destroying, moving or rendering less useful a light-house or sea-mark.*—Whoever commits mischief by destroying or moving any light-house or other lights used as a sea-mark, or any sea-mark, or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Procedure: As for s. 429; but triable exclusively by Court of Session.

434. *Mischief by destroying or moving, etc., a land-mark fixed by public authority.*—Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

435. *Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.*—Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards * or (where the property is agricultural produce) ten rupees or upwards,* shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate or Magistrate of the first class.

* These words were inserted by Act VIII of 1882, s. 10.

436 *Mischief by fire or explosive substance with intent to destroy house, etc.*—Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 435; but not bailable, and triable exclusively by Court of Session.

437. *Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.*—Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 436.

438. *Punishment for the mischief described in section* 437 *committed by fire or explosive substance.*—Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 436.

439. *Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.*—Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 436.

440. *Mischief committed after preparation made for causing death or hurt.*—Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description

for a term which may extend to five years, and shall also be liable to fine.

Procedure: As for s. 436; but triable *also* by Presidency Magistrate or Magistrate of the first class.

*Of Criminal Trespass.**

441. *Criminal trespass.*—Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult, or annoy any person in possession of such property,

or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence, is said to commit 'criminal trespass.'

442. *House-trespass.*—Whoever commits criminal trespass by entering into or remaining in any building, tent, or vessel used as a human dwelling, or any building, used as a place for worship, or as a place for the custody of property, is said to commit 'house-trespass.'

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. *Lurking house-trespass.*—Whoever commits house trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit 'lurking house-trespass.'

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* As to the application of ss. 441, 445, to offences under special or local laws, see s. 40, *supra*.

As to duty to give information of offences punishable under ss. 449, 450 or 456 to 460, see Act X of 1882, s. 44, as amended by Act III of 1894. See also (as to offences punishable under ss. 449, 450, 457, 458, 459 or 460) Act X of 1882, s. 45, as amended by Acts III and X of 1894.

Offences punishable under ss. 447, 448, are compoundable—see *ibid*, s. 345.

As to whipping for offences defined in ss. 443-446, see Act VI of 1864, ss. 2, 3, 4, 6 [a revised edition of this Act, as modified up to 1st March, 1895, has been published by the Legislative Department], and (in the Assam Hill Districts) Reg. III of 1875, ss. 2, 3, 4.

As to whipping for offences punishable under ss. 448-460 (in the Punjab Frontier Districts and Baluchistan), see Reg. IV of 1887, s. 8 [in Punjab Code, Ed. 1888, p. 395, and Baluchistan Code, Ed. 1890, p. 55]; for offences punishable under ss. 455, 458, 459, 460 (in Upper Burma), see Act XX of 1886, s. 7, cl. (*c*), and Sch. III [in Burma Code, Ed. 1889, pp. 365, 370].

As to punishment for offences under ss, 448-460, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14.

444. *Lurking house-trespass by night.*—Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit 'lurking house-trespass by night.'

445. *House-breaking.*—A person is said to commit 'house-breaking,' who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any part of such six ways, that is to say:—

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house, or building occupied with a house and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations.

(*a*.) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(*b.*) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(*c.*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d.*) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e.*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f.*) A finds the key of Z's house-door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(*g.*) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(*h.*) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. *House-breaking by night.*—Whoever commits house-breaking after sunset and before sunrise, is said to commit 'house-breaking by night.'

447. *Punishment for criminal trespass.*—Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Procedure:
Police may arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Any Magistrate.

448. *Punishment for house-trespass.*—Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Procedure: As for s. 407; but warrant shall ordinarily issue in the first instance.

449. *House-trespass in order to commit offence punishable with death.*—Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance
Not bailable.
Not compoundable.
Court of Session.

450. *House-trespass in order to commit offence punishable with transportation for life.*—Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Procedure: As for s. 449.

451. *House-trespass in order to commit offence punishable with imprisonment.*—Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Any Magistrate.
But *if the offence is theft*:—
Not bailable, and triable by Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

452. *House-trespass after preparation for hurt, assault or wrongful restraint.*—Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

453. *Punishment for lurking house-trespass or house-breaking.*—Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Procedure: As for s. 451; but triable by Presidency Magistrate or Magistrate of the first or second class.

454. *Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.*—Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Procedure: As for s. 452.

455. *Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.*—Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 452; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first class.

456. *Punishment for lurking house-trespass or house-breaking by night.*—Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure: As for s. 452.

457. *Lurking house-trespass or house-breaking by night, in order to commit offence punishable with imprisonment.*—Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Procedure: As for s. 452.

458. *Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.*—Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with

imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Procedure: As for s. 452; but triable by Court of Session, Presidency Magistrate, or Magistrate of the first class.

459. *Grievous hurt caused whilst committing lurking house-trespass or house-breaking.*—Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 452; but triable exclusively by Court of Session.

460. *All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.*—If, at the time of the committing of lurking house-trespass by night, or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 459.

461. *Dishonestly breaking open receptacle containing property.*—Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains, or which he believes to contain, property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure:
Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

462. *Punishment for same offence when committed by person entrusted with custody.*—Whoever, being entrusted with any closed receptacle which contains, or which he believes to contain, property, without having authority to open the same, dishonestly, or with extent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 461; but triable *also* by Court of Session.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.*

463. *Forgery.*—Whoever makes any false document, or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud, or that fraud may be committed, commits forgery.

464. *Making a false document.*—A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals, or executes a document, or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows, that it was not made, signed, sealed or executed; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

Illustrations.

(*a.*) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

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* As to authority for instituting prosecutions under ss. 463, 471, 475 or 476, see Act X of 1882, s. 195, cl. (*c*).

As to procedure in case of offences described in ss. 463, 471, 474, 475, 476 or 477, see Act XIV of 1882, s. 643.

As to whipping for the offences defined in ss. 463, 466—469, see Act VI of 1864, ss. 4, 6, and (in the Assam Hill Districts) Reg. III of 1875, s. 4.

(*b.*) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase-money. A has committed forgery.

(*c.*) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(*d.*) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(*e.*) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(*f.*) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(*g.*) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order" and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(*h.*) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(*i.*) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and, by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(*j.*) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(*k.*) A without B's authority writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—**A man's signature of his own name may amount to forgery.**

Illustrations.

(*a.*) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(*b.*) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(*c.*) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable: here A has committed forgery.

(*d.*) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(*e.*) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

465. *Punishment for forgery.*—Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

466. *Forgery of record of Court or of public register, etc.*—Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage, or burial, or a register kept by a public

servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power-of-attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 465; but not bailable, and triable exclusively by Court of Session.

467. *Forgery of valuable security, will, etc.*—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, moveable property or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure: As for s. 466; but *when the valuable security is a promissory note of the Government of India*, Police may arrest without warrant.

468. *Forgery for purpose of cheating.*—Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 466; but triable *also* by Presidency Magistrate, or Magistrate of the first class.

469. *Forgery for purpose of harming reputation.*—Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure: As for s. 468; but bailable.

470. *Forged document.*—A false document made wholly or in part by forgery is designated 'a forged document.'

471. *Using as genuine a forged document.*—Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document,

shall be punished in the same manner as if he had forged such document.

Procedure :
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Same Court as that by which the forgery is triable.
But *when the forged document is a promissory note of the Government of India*, the *Police* may arrest without warrant, and triable by Court of Session.

472. *Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section* 467.—Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or with such intent, has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 469; but triable exclusively by Court of Session.

473. *Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.*—Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or with such intent has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 472.

474. *Having possession of document described in section* 466 *or* 467, *knowing it to be forged and intending to use it as genuine.*—Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 466 of this Code, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and, if the document is one of

the description mentioned in section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 472.

475. *Counterfeiting device or mark used for authenticating documents described in section* 467, *or possessing counterfeit marked material.*—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 472.

476. *Counterfeiting device or mark used for authenticating documents other than those described in section* 467, *or possessing counterfeit marked material.*—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure: As for s. 472; but not bailable.

477. *Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.*—Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished

with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 472 ; but not bailable.

*477A. *Falsification of accounts.*—Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.

Procedure : As for s. 472 ; but not bailable.

Of Trade, Property and other Marks.†

478. *Trade mark.*—A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark,

and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or Foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

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* Section 477A was added by Act III of 1895, s. 4.

† Sections 478 to 489 were substituted for the original sections by Act IV of 1889, s. 3. [For Act IV of 1889, see the revised edition, as modified up to 1st June, 1891, published by the Legislative Department.]

As to costs of defence of prosecution, and limitation of prosecutions, under these sections, see *ibid*, ss. 14, 15.

As to unintentional contravention of ss. 480-482 or 485, see *ibid*, s. 8.

As to forfeiture of goods on contravention of ss. 482 or 486-488, see *ibid*, s. 9.

479. *Property mark.*—A mark used for denoting that moveable property belongs to a particular person is called a property mark.

480. *Using a false trade mark.*—Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

481. *Using a false property mark.*—Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

482. *Punishment for using a false trade mark or property mark.*—Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first or second class.

483. *Counterfeiting a trade mark or property mark used by another.*—Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 482.

484. *Counterfeiting a mark used by a public servant.*—Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or

that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Procedure:
Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

485. *Making or possession of any instrument for counterfeiting a trade mark or property mark.*—Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 484.

486. *Selling goods marked with a counterfeit trade mark or property mark.*—Whoever sells or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 482; but summons shall ordinarily issue in the first instance.

487. *Making a false mark upon any receptacle containing goods.*—Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Procedure: As for s. 484; but *also* triable by a Magistrate of the second class.

488. *Punishment for making use of any such false mark.*—Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Procedure: As for s. 487.

489. *Tampering with property mark with intent to cause injury.*—Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 486.

CHAPTER XIX.*

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490. *Breach of contract of service during voyage or journey.*—Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person, or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either descrip-

* Cognizance may be taken of an offence under Chapter XIX only on complaint by an aggrieved party—see Act X of 1882, s. 198.

Offences punishable under this chapter are compoundable—see *ibid*, s. 345.

tion for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Illustrations.

(*a.*) A, a palanquin bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this section.

(*b.*) A, a coolie, being bound by lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed the offence defined in this section.

(*c.*) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this section.

(*d.*) A, by unlawful means, compels B, a coolie, to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

Explanation.—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly, by the person who is to perform the service.

Illustration.

A contracts with a dâk company to drive his carriage for a month. B employs the dâk company to convey him on a journey, and during the month the company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this section.

Procedure: As for s. 489; but compoundable.

491. *Breach of contract to attend on and supply wants of helpless person.*—Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Procedure: As for s. 489; but compoundable.

492. *Breach of contract to serve at distant place to which servant is conveyed at master's expense.*—Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman or labourer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at

the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless the employer has ill-treated him or neglected to perform the contract on his part.

Procedure: As for s. 489; but compoundable.

CHAPTER XX.*

On Offences relating to Marriage.

493. *Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.*—Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session.

494. *Marrying again during lifetime of husband or wife.*—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage, with such husband or wife, has been declared void by a Court of competent jurisdiction, nor to any

* Cognizance may be taken of an offence under ss. 493, 494, 495 or 496 only on complaint by an aggrieved party, and of an offence under s. 497 or 498 only on complaint by the husband or guardian of the woman—see Act X of 1882, ss. 198, 199.

Offences punishable under ss. 497 and 498 are compoundable—see *ibid*, s. 345.

As to punishment for offences under ss. 497, 498, enquired into by a Council of Elders in a Punjab Frontier District or in Baluchistan, see Reg. IV of 1887, s. 14 [in Punjab Code, Ed. 1888, p. 396, and Baluchistan Code, Ed. 1890, p. 57].

person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

Procedure : As for s. 493 ; but bailable.

495. *Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.*—Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Procedure : As for s. 493.

496. *Marriage ceremony fraudulently gone through without lawful marriage.*—Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Procedure : As for s. 493.

497. *Adultery.*—Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife * shall not be punishable as an abettor.

Procedure :
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Presidency Magistrate or Magistrate of the first class.
Court of Session.

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* In the Punjab Frontier Districts and Baluchistan a married woman is punishable for adultery—see Reg. IV of 1887, s. 32 [in Punjab Code, Ed. 1888, p. 400, and Baluchistan Code, Ed. 1890, p. 61]. As to punishment, see also s. 14 of that Regulation.

498. *Enticing or taking away or detaining with criminal intent a married woman.*—Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals, or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 497; but triable *also* by Magistrate of the second class.

CHAPTER XXI.*

OF DEFAMATION.

499. *Defamation.*—Whoever, by words either spoken or intended to be read, or by signs or by visible representations makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

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* Cognizance may be taken of an offence under Chapter XXI only on complaint by an aggrieved party—see Act X of 1882, s. 198.

Offences punishable under ss. 500, 501 or 502 are compoundable—see *ibid*, s. 345.

For power to order the destruction of copies of the thing in respect of which a conviction under s. 501 or s. 502 is had, see Act X of 1882, s. 521.

Illustrations.

(*a.*) A says—"Z is an honest man; he never stole B's watch:" intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(*b.*) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(*c.*) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception. Imputation of truth which public good requires to be made or published.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second Exception. Public conduct of public servants.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception. Conduct of any person touching any public question.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question and respecting his character, so far as his character appears in that conduct, and no further.

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception. Publication of reports of proceedings of Courts.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception. Merits of case decided in Court, or conduct of witnesses and others concerned.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided

by a Court of Justice, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

Illustrations.

(*a.*) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(*b.*) But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity." A is not within this exception, inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception. Merits of public performance.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a.*) A person who publishes a book, submits that book to the judgment of the public.

(*b.*) A person who makes a speech in public, submits that speech to the judgment of the public.

(*c.*) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(*d.*) A says of a book published by Z—"Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

(*e.*) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine," A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception. Censure passed in good faith by person having lawful authority over another.—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration.

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a school-master, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

Eighth Exception. Accusation preferred in good faith to authorized person.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Ninth Exception. Imputation made in good faith by person for protection of his or other's interests.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations.

(*a.*) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you readymoney, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(*b.*) A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Tenth Exception. Caution intended for good of person to whom conveyed or for public good.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

500. *Punishment for defamation.*—Whoever defames another shall be punished with simple imprisonment for a

term which may extend to two years, or with fine, or with both.

Procedure:
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first class.

501. *Printing or engraving matter known to be defamatory.*—Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 500.

502. *Sale of printed or engraved substance containing defamatory matter.*—Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Procedure: As for s. 500.

CHAPTER XXII.*

Of Criminal Intimidation, Insult and Annoyance.

503. *Criminal intimidation.*—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

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* Offences punishable under s. 504, and certain offences punishable under s. 506, are compoundable—see Act X of 1882, s. 345.

As to whipping (in Upper Burma) for the offence mentioned in s. 506, see Act XX of 1886, s. 7, cl. (*c*), and Sch. III [in Burma Code, Ed. 1889, pp. 365, 370].

Illustration.

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

504. *Intentional insult with intent to provoke breach of the peace.*—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Procedure :
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Any Magistrate.

*" 505. *Statements conducing to public mischief.*—Whoever makes, publishes or circulates any statement, rumour or report,—

(*a*) with intent to cause, or which is likely to cause, any officer, soldier or sailor in the army or navy of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such ; or

(*b*) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or

(*c*) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community ;

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid."

Procedure :
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Presidency Magistrate or Magistrate of the first class.

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* Act IV of 1898, s. 6.

506. *Punishment for criminal intimidation.*—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

If threat be to cause death or grievous hurt, etc.—And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Procedure :
Police shall not arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Bailable.
Compoundable.
Presidency Magistrate or Magistrate of the first class.
But *if threat be to cause death or grievous hurt*, not compoundable, and triable *also* by Court of Session.

507. *Criminal intimidation by an anonymous communication.*—Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

Procedure : As for s. 506.

508. *Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.*—Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do,

by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations.

(*a.*) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(*b.*) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

Procedure: As for s. 507; but triable by Presidency Magistrate, or Magistrate of the first or second class.

509. *Word, gesture or act intended to insult the modesty of a woman.*—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Procedure: As for s. 507; but triable by Presidency Magistrate, or Magistrate of the first class.

510. *Misconduct in public by a drunken person.*—Whoever, in a state of intoxication, appears in any public place, or in any place, which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

Procedure: As for s. 507; but triable by any Magistrate.

CHAPTER XXIII.*

OF ATTEMPTS TO COMMIT OFFENCES.

511. *Punishment for attempting to commit offences punishable with transportation or imprisonment.*—Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or

* Chapter XXIII applies to offences punishable under ss. 121A, 294A, and 304A—see Act XXVII of 1870, s. 13.

Attempts to commit certain offences are compoundable—see Act X of 1882, s. 345.

imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a.*) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(*b.*) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

Procedure:

According as the offence is one in respect of which the Police may arrest without warrant or not.

According as the offence is one in respect of which a summons or warrant shall ordinarily issue.

According as the offence contemplated by the offender is bailable or not.

Compoundable when the offence attempted is compoundable.

Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

If punishable with death, transportation or imprisonment for seven years or upwards—

Police may arrest without warrant.
Warrant shall ordinarily issue in the first instance.
Not bailable.
Not compoundable.
Court of Session.

If punishable with imprisonment for three years and upwards, but less than seven, same as above, but bailable in cases under the Indian Arms Act, 1878, s. 19, and triable also by Presidency Magistrate, or Magistrate of the first class.

If punishable with imprisonment for less than three years—

Police shall not arrest without warrant.
Summons shall ordinarily issue in the first instance.
Bailable.
Not compoundable.
Court of Session, Presidency Magistrate, or Magistrate of the first or second class.

If punishable with imprisonment for less than one year, or with fine only—

Same as the above; but triable by any Magistrate.

ACT NO. V OF 1898.

Passed by the Governor-General of India in Council.

(RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE 22ND MARCH, 1898.)

An Act to consolidate and amend the law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

CHAPTER I.

1. (1) *Short title. Commencement.*—This Act may be called "The Code of Criminal Procedure, 1898"; and it shall come into force on the first day of July, 1898.

(2) *Extent.* — It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force, or shall apply to—

(*a*) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the Police in the towns of Calcutta and Bombay;

(*b*) heads of villages in the Presidency of Fort St. George; or

(*c*) village Police-officers in the Presidency of Bombay:

Provided that the Local Government may, if it thinks fit, with the sanction of the Governor-General in Council, by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

2. (1) *Repeal of enactments.*—On and from the first day of July, 1898, the enactments mentioned in the first schedule shall be repealed to the extent specified in the fourth column

thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

(2) *Notifications, etc., under repealed Acts.*—All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed, and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the first day of July, 1898, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

(3) *Pending cases.*—The provisions of this Code shall apply to all proceedings instituted after the commencement of this Code, and so far as may be, to all cases pending in any Criminal Court when this Code comes into force.

3. (1) *References to Code of Criminal Procedure and other repealed enactments.*—In every enactment passed before this Code comes into force, in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act XXV of 1861, or Act X of 1872, or Act X of 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

(2) *Expressions in former Acts.*—In every enactment passed before this Code comes into force, the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Subdivisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge."

4. (1) *Definitions.*—In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context :—

(*a*) "*Advocate-General.*"—"Advocate-General" includes also a Government Advocate, or, where there is no Advocate-General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf :

(*b*) "*Bailable offence.*" "*Non-bailable offence.*"—"Bailable offence" means an offence shewn as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence:

(*c*) "*Charge.*"—"Charge" includes any head of charge when the charge contains more heads than one:

(*d*) "*Chief Justice.*"—"Chief Justice" includes also the Chief Judge of the Chief Court of the Punjab and the Recorder of Rangoon:

(*e*) "*Clerk of the Crown.*"—"Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown:

(*f*) "*Cognizable offence.*" "*Cognizable case.*"—"Cognizable offence" means an offence for, and "cognizable case" means a case in which a Police-officer, within or without the Presidency-towns, may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant:

(*g*) "*Commissioner of Police.*"—"Commissioner of Police" includes a Deputy Commissioner of Police:

(*h*) "*Complaint.*"—"Complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action, under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a Police-officer:

(*i*) "*European British subject.*"—"European British subject" means—

(*i*) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand, or in the Colony of the Cape of Good Hope or Natal;

(*ii*) any child or grand-child of any such person by legitimate descent:

(*j*) "*High Court.*"—"High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the Court of the Recorder of Rangoon: In other cases "High Court" means the highest Court of Criminal Appeal or Revision for any local area; or, where no such Court is established under any law

for the time being in force, such officer as the Governor-General in Council may appoint in this behalf:

(*k*) "*Inquiry.*"—"Inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court:

(*l*) "*Investigation.*"—"Investigation" includes all the proceedings under this Code for the collection of evidence conducted by a Police-officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf:

(*m*) "*Judicial proceeding.*"—"Judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath:

(*n*) "*Non-cognizable offence.*" "*Non-cognizable case.*"—"Non-cognizable offence" means an offence for, and "Non-cognizable case" means a case in, which a Police-officer, within or without a Presidency-town, may not arrest without warrant:

(*o*) "*Offence.*"—"Offence" means any act or omission made punishable by any law for the time being in force;

it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-Trespass Act, 1871:

(*p*) "*Officer in charge of a Police-station.*"—"Officer in charge of a Police-station" includes, when the officer in charge of the Police-station is absent from the station-house or unable from illness or other cause to perform his duties, the Police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other Police-officer so present:

(*q*) "*Place.*"—"Place" includes also a house, building, tent and vessel:

(*r*) "*Pleader.*"—"Pleader," used with reference to any proceeding in any Court, means a pleader authorised under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorised, and (2) any mukhtar or other person appointed with the permission of the Court to act in such proceeding:

(*s*) "*Police-station.*"—"Police-station" means any post or place declared, generally or specially, by the Local Government to be a Police-station, and includes any local area specified by the Local Government in this behalf:

(*t*) "*Public Prosecutor.*"—"Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction:

(*u*) "*Subdivision.*"—"Subdivision" means a subdivision of a District :

(*v*) "*Summons-case.*"—"Summons-case" means a case relating to an offence, and not being a warrant-case : and

(*w*) "*Warrant-case.*"—"Warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

(*x*) *Words referring to acts.*—Words which refer to acts done, extend also to illegal omissions ; and

Words to have same meaning as in Indian Penal Code.—All words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

5. (1) *Trial of offences under Penal Code.*—All offences under the Indian Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) *Trial of offences against other laws.*—All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

6. *Classes of Criminal Courts.*—Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely :—

I.—Courts of Session :

II.—Presidency Magistrates :

III.—Magistrates of the first class :

IV.—Magistrates of the second class :

V.—Magistrates of the third class.

B.—Territorial Divisions:

7. (1) *Sessions divisions and districts.*—Every Province (excluding the Presidency-towns) shall be a Sessions Division or shall consist of sessions divisions; and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

(2) *Power to alter divisions and districts.*—The Local Government may alter the limits, or, with the previous sanction of the Governor-General in Council, the number of such divisions and districts.

(3) *Existing divisions and districts maintained till altered.*—The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

(4) *Presidency-towns to be deemed districts.*—Every Presidency-town shall, for the purposes of this Code, be deemed to be a district.

8. (1) *Power to divide districts into subdivisions.* — The Local Government may divide any district outside the Presidency-towns into subdivisions, or make any portion of any such district a subdivision, and may alter the limits of any subdivision.

(2) *Existing subdivisions maintained.*—All existing subdivisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

9. (1) *Court of Session.*—The Local Government shall establish a Court of Session for every Sessions Division, and appoint a Judge of such Court.

(2) The Local Government may, by general or special order in the official Gazette, direct at what place or places the Court of Session shall hold its sitting; but, until such order be made, the Courts of Session shall hold their sittings as heretofore.

(3) The Local Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(4) A Sessions Judge of one sessions division may be appointed by the Local Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Local Government may direct.

(5) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

10. (1) *District Magistrate.*—In every district outside the Presidency-towns, the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

(2) The Local Government may appoint any Magistrate of the first class to be an Additional District Magistrate for a period not exceeding six months, and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code as the Local Government may direct.

11. *Officers temporarily succeeding to vacancies in office of District Magistrate.*—Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the District, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

12. (1) *Subordinate Magistrates.*—The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrate of the first, second or third class in any district outside the Presidency-towns;

Local limits of their jurisdiction.—And the Local Government, or the District Magistrate subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

13. (1) *Power to put Magistrate in charge of subdivision.*—The Local Government may place any Magistrate of the first or second class in charge of a subdivision, and relieve him of the charge as occasion requires.

(2) Such Magistrates shall be called Subdivisional Magistrates.

(3) *Delegation of powers to District Magistrate.*—The Local Government may delegate its powers under this section to the District Magistrate.

14. (1) *Special Magistrates.*—The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to

cases generally, in any local area outside the Presidency-towns.

(2) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the Local Government may by general special order direct.

(3) With the previous sanction of the Governor-General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by sub-section (1).

(4) No powers shall be conferred under this section on any Police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a Police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

15. (1) *Benches of Magistrates.*—The Local Government may direct any two or more Magistrates in any place outside the Presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit.

(2) *Powers exerciseable by Bench in absence of special direction.*—Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

16. *Power to frame rules for guidance of Benches.*—The Local Government may, or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

(*a*) the classes of cases to be tried ;

(*b*) the times and places of sitting ;

(*c*) the constitution of the Bench for conducting trials ;

(*d*) the mode of settling differences of opinion which may arise between the Magistrates in Session.

17. (1) *Subordination of Magistrates and Benches to District Magistrate.*—All Magistrates appointed under sections 12,

13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches; and

(2) *to Subdivisional Magistrate*—every Magistrate (other than a Subdivisional Magistrate) and every Bench exercising powers in a subdivision shall also be subordinate to the Subdivisional Magistrate, subject, however, to the general control of the District Magistrate.

(3) *Subordination of Assistant Sessions Judges to Sessions Judge.*—All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

(4) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

18. (1) *Appointment of Presidency Magistrates.*—The Local Government shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the Presidency-towns, and shall appoint one of such persons to be Chief Presidency Magistrate for each such town.

(2) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate, or by any other Presidency Magistrate empowered by the Local Government to sit singly, or by any Bench of Presidency Magistrates.

19. *Benches.*—Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench.

20. *Local limits of jurisdiction.*—Every Presidency Magistrate shall exercise jurisdiction in all places within the Presi-

dency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

21. (1) *Chief Presidency Magistrate.*—Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

(*a*) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town ;

(*b*) the times and places at which Benches of Magistrates shall sit ;

(*c*) the constitution of such Benches ;

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session ; and

(*e*) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrates subordinate to him.

(2) The Local Government may, for the purposes of this Code, declare what Presidency Magistrates are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

E.—Justices of the Peace.

22. *Justices of the Peace for the Mufassal.*—The Governor-General in Council, so far as regards the whole or any part of British India outside the Presidency-towns,

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

23. *Justices of the Peace for the Presidency-towns.*—The Local Government, so far as regards the towns of Calcutta, Madras and Bombay, may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom the Local Government thinks fit.

24. (1) *Present Justices of the Peace.*—Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor-General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

(2) Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

25. *Ex-officio Justices of the Peace.*—In virtue of their respective offices, the Governor-General, Governors, Lieutenant-Governors and Chief Commissioners, the Ordinary Members of the Council of the Governor-General, the Judges of the High Courts and the Recorder of Rangoon are Justices of the Peace within and for the whole of British India, Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

F.—Suspension and Removal.

26. *Suspension and removal of Judges and Magistrates.*—All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor-General in Council only shall not be suspended or removed from office by any other authority.

27. *Suspension and removal of Justices of the Peace.*—The Governor-General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it.

CHAPTER III.

POWERS OF COURTS.

A.—Description of Offences cognizable by each Court.

28. *Offences under Penal Code.*—Subject to the other provisions of this Code, any offence under the Indian Penal Code may be tried—

(*a*) by the High Court, or

(*b*) by the Court of Session, or

(*c*) by any other Court by which such offence is shown in the eighth column of the Second Schedule to be triable.

Illustration.

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

29. (1) *Offences under other laws.* — Subject to the provisions of section 447, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried by the High Court or by any Court constituted under this Code by which such offence is shewn in the eighth column of the Second Schedule to be triable.

30. *Offences not punishable with death.*—In the territories respectively administered by the Lieutenant-Governors of the Punjab and Burma and the Chief Commissioners of Oudh, the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other Provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate or any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

31. (1) *Sentences which High Courts and Sessions Judges may pass.*—A High Court may pass any sentence authorised by law.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(3) An Assistant Sessions Judge may pass any sentence authorised by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years.

32. (1) *Sentences which Magistrates may pass.*—The Courts of Magistrates may pass the following sentences, namely :—

(*a*) Courts of Presidency Magistrates and of Magistrates of the first class :	Imprisonment for a term not exceeding two years, including such solitary confinement as is authorised by law ; Fine not exceeding one thousand rupees ; Whipping.
(*b*) Courts of Magistrates of the second class :	Imprisonment for a term not exceeding six months, including such solitary confinement as is authorised by law ; Fine not exceeding two hundred rupees ; Whipping (if specially empowered).
(*c*) Courts of Magistrates of the third class :	Imprisonment for a term not exceeding one month ; Fine not exceeding fifty rupees.

(2) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorised by law to pass.

(3) No Court of any Magistrate of the second class shall pass a sentence of whipping unless it is specially empowered in this behalf by the Local Government.

33. (1) *Power of Magistrates to sentence to imprisonment in default of fine.*—The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law in case of such default :

Provided that—

(*a*) the term is not in excess of the Magistrate's powers under this Code :

(*b*) *Proviso as to certain cases.*—In any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

34. *Higher powers of certain District Magistrates.*—The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorised by law, except a sentence of death or of transportation for a term exceeding seven years, or imprisonment for a term exceeding seven years.

35. (1) *Sentence in cases of conviction of several offences as one trial.*—When a person is convicted at one trial of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided as follows:—

(*a*) *Maximum term of punishment.*—In no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(*b*) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(3) For the purpose of appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

Explanation.—Separable offences which come within the provisions of section 71 of the Indian Penal Code are not distinct offences within the meaning of this section.

Illustration.

A breaks into a house with intent to commit theft and steals property therein. A has not committed distinct offences.

C.—Ordinary and Additional Powers.

36. *Ordinary powers of Magistrates.*—All District Magistrates, Subdivisional Magistrates and Magistrates of the first, second and third classes have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."

37. *Additional powers conferrable on Magistrates.*—In addition to his ordinary powers, any Subdivisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

38. *Control of District Magistrate's investing power.*—The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

D.—Conferment, Continuance and Cancellation of Powers.

39. (1) *Mode of conferring powers.*—In conferring powers under this Code the Local Government may, by order, empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

40. *Continuance of powers of officers transferred.*—Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

41. (1) *Powers may be cancelled.*—The Local Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.

(2) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

42. *Public when to assist Magistrates and Police.*—Every person is bound to assist a Magistrate or Police-officer

reasonably demanding his aid, whether within or without the Presidency-towns,—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or Police-officer is authorised to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

43. *Aid to person, other than Police-officer, executing warrant.*—When a warrant is directed to a person other than a Police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

44. (1) *Public to give information of certain offences.*—Every person, whether within or without the Presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or Police-officer of such commission or intention.

(2) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

45. (1) *Village-headmen, accountants, land-holders and others bound to report certain matters.*—Every village-headman, village accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest Police-station, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or Police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably

suspects, to be a thug, robber, escaped convict or proclaimed offender ;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code ;

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances ;

(*e*) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ;

(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

(2) In this section—

(*i*) "village" includes village-lands ; and

(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor-General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

(3) *Appointment of village-headmen by District Magistrate in certain cases for purposes of this section.*—Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. (1) *Arrest how made.*—In making an arrest the Police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2) *Resisting endeavour to arrest.*—If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such Police-officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death, or with transportation for life.

47. *Search of place entered by person sought to be arrested.*—If any person acting under a warrant of arrest, or any Police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such Police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

48. *Procedure where ingress not obtainable.*—If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a Police-officer to enter such place and search therein, and, in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance :

Breaking open zanana.—Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or Police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

49. *Power to break open doors and windows for purposes of liberation.*—Any Police-officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

50. *No unnecessary restraint.*—The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

51. *Search of arrested persons.*—Whenever a person is arrested by a Police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the Police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

52. *Mode of searching women.*—Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

53. *Power to seize offensive weapons.*—The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

54. (1) *When Police may arrest without warrant.*—Any Police-officer may, without an order from a Magistrate and without a warrant, arrest—

first—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned;

secondly—any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

thirdly—any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

fourthly—any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly—any person who obstructs a Police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy or of belonging to Her

Majesty's Indian Marine Service and being illegally absent from that service;

seventhly—any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and

eighthly—any released convict committing a breach of any rule made under section 565, sub-section (3).

(2) This section applies also to the Police in the towns of Calcutta and Bombay.

55. (1) *Arrest of vagabonds, habitual robbers, etc.*—Any officer in charge of a Police-station may, in like manner, arrest or cause to be arrested—

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(*c*) any person who is by repute an habitual robber, housebreaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

(2) This section applies also to the Police in the towns of Calcutta and Bombay.

56. (1) *Procedure when Police-officer deputes subordinate to arrest without warrant.*—When any officer in charge of a Police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

(2) This section applies also to the Police in the towns of Calcutta and Bombay.

57. (1) *Refusal to give name and residence.*—When any person who in the presence of a Police-officer has committed or has been accused of committing a non-cognizable offence

refuses, on demand of such officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

58. *Pursuit of offenders into other jurisdiction.*—A Police-officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest under this chapter, pursue such person into any place in British India.

59. (1) *Arrest by private person.*—Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender ;

Procedure on such arrest.—And shall without unnecessary delay, make over any person so arrested to a Police-officer, or, in the absence of a Police-officer, take such person to the nearest Police-station.

(2) If there is reason to believe that such person comes under the provisions of section 54, a Police-officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a Police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

60. *Person arrested to be taken before Magistrate or officer in charge of Police-station.*—A Police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a Police-station.

61. *Person arrested not to be detained more than twenty-four hours.*—No Police-officer shall detain in custody a person

arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the the time necessary for the journey from the place of arrest to the Magistrate's Court.

62. *Police to report apprehensions.*—Officers in charge of Police-stations shall report to the District Magistrate, or, if he so directs, to the Subdivisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such person have been admitted to bail or otherwise.

63. *Discharge of person apprehended.*—No person who has been arrested by a Police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

64. *Offence committed in Magistrate's presence.*—When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

65. *Arrest by or in presence of Magistrate.*—Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

66. *Power, on escape, to pursue and retake.*—If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued, may immediately pursue and arrest him in any place in British India.

67. *Provisions of sections* 47, 48 *and* 49 *to apply to arrests under section* 66.—The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a Police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

68. (1) *Form of summons.*—Every summons issued by a Court under this Code shall be in writing, in duplicate, signed and sealed by the presiding officer of such Court, or by such

other officer as the High Court may, from time to time, by rule, direct.

(2) *Summons by whom served.*—Such summons shall be served by a Police-officer, or, subject to such rules as the Local Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

(3) This section applies also to the Police in the towns of Calcutta and Bombay.

69. (1) *Summons how served.*—The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

(2) *Signature of receipt for summons.*—Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

(3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in British India. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

70. *Service when person summoned cannot be found.*—Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a Presidency-town, with his servant residing with him; and the person with whom the summons is so left, shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

71. *Procedure when service cannot be effected as before provided.*—If service in the manner mentioned in sections 69 and 70 cannot, by the exercise of due diligence, be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

72. (1) *Service on servant of Government or of Railway Company.*—Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the

Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

73. *Service of summons outside local limit.*—When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is to be there served.

74. (1) *Proof of service in such cases, and when serving officer not present.*—When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

75. (1) *Form of warrant of arrest.*—Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

(2) *Continuance of warrant of arrest.*—Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

76. (1) *Court may direct security to be taken.*—Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed, shall take such security and shall release such person from custody.

(2) The endorsement shall state—

(*a*) the number of sureties;

(*b*) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(*c*) the time at which he is to attend before the Court.

(3) *Recognizance to be forwarded.*—Whenever security is taken under this section, the officer to whom the warrant is directed, shall forward the bond to the Court.

77. (1) *Warrants to whom directed.*—A warrant of arrest shall ordinarily be directed to one or more Police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no Police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

(2) *Warrant to several persons.*—When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

78. (1) *Warrant may be directed to landholders, etc.*—A District Magistrate or Subdivisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or subdivision for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued, is arrested, he shall be made over with the warrant to the nearest Police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

79. *Warrant directed to Police-officer.*—A warrant directed to any Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

80. *Notification of substance of warrant.*—The Police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

81. *Person arrested to be brought before Court without delay.*—The Police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

82. *Where warrant may be executed.*—A warrant of arrest may be executed at any place in British India.

83. (1) *Warrant forwarded for execution outside jurisdiction.*—When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a Police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a Presidency-town within the local limits of whose jurisdiction it is to be executed.

(2) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

84. (1) *Warrant directed to Police-officer for execution outside jurisdiction.*—When a warrant directed to a Police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local Police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the Police-officer to whom it is directed, may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(4) This section applies also to the Police in the towns of Calcutta and Bombay.

85. *Procedure on arrest of person against whom warrant issued.*—When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant, is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a Presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

86. (1) *Procedure by Magistrate before whom person arrested is brought.*—Such Magistrate or District Superintendent or

Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court.

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a Police-officer from taking security under section 76.

C.—Proclamation and Attachment.

87. (1) *Proclamation for person absconding.*—If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it, has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows :—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

88. (1) *Attachment of property of person absconding.*—The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made ; and it shall authorise the attachment of any property belonging to such person without such district, when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(*a*) by seizure ; or

(*b*) by the appointment of a receiver ; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf ; or

(*d*) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

(*e*) by taking possession ; or

(*f*) by the appointment of a receiver ; or

(*g*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf ; or

(*h*) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure.

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government ; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

89. *Restoration of attached property.*—If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under subsection (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding exe-

cution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale, and the residue of the property shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other Rules regarding Processes.

90. *Issue of warrant in lieu of, or in addition to, summons.*—A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same, but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith, and no reasonable excuse is offered for such failure.

91. *Power to take bond for appearance.*—When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

92. *Arrest on breach of bond for appearance.*—When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

93. *Provisions of this chapter generally applicable to summonses and warrants of arrest.*—The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

94. (1) *Summons to produce document or other thing.*—Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a Police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition, if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, post-card, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities.

95. (1) *Procedure as to letters and telegrams.*—If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.

96. (1) *When search-warrant may be issued.*—Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95,

sub-section (1), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant ; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) Nothing herein contained shall authorise any Magistrate, other than a District Magistrate, or Chief Presidency Magistrate, to grant a warrant to search for a document, parcel or other thing in the custody of the postal or Telegraph authorities.

97. *Power to restrict warrant.*—The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend ; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

98. (1) *Search of house suspected to contain stolen property, forged documents, etc.*— If a District Magistrate, Subdivisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

he may by his warrant authorise any Police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to

guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*c*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale, or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials, knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

(2) The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply respectively to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act.

99. *Disposal of things found in search beyond jurisdiction.*—When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

C.—Discovery of Persons wrongfully confined.

100. *Search for persons wrongfully confined.*—If any Presidency Magistrate, Magistrate of the first class or Subdivi-

sional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.—General Provisions relating to Searches.

101. *Direction, etc., of search-warrants.*—The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98 or section 100.

102. (1) *Persons in charge of closed place to allow search.*—Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

103. (1) *Search to be made in presence of witnesses.*—Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) *Occupant of place searched may attend.*—The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the

said witnesses, shall be delivered to such occupant or person at his request.

(4) When any person is searched under section 102, sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

E.—Miscellaneous.

104. *Power to impound document, etc., produced.*—Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

105. *Magistrate may direct search in his presence.*—Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

Of Security for keeping the Peace and for Good Behaviour.

A.—Security for keeping the Peace on Conviction.

106. (1) *Security for keeping the Peace on Conviction.*—Whenever any person accused of rioting, assault or other offence involving a breach of the peace, or of abetting the same, or of assembling armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.

107. (1) *Security for keeping the peace in other cases.*—Whenever a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquility, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless either the person informed against, or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

(3) *Procedure of Magistrate not empowered to act under sub-section* (1).—When any Magistrate not empowered to proceed under sub-section (1) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate or Court may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under this section may, in his discretion, detain such person in custody until the completion of the inquiry hereinafter prescribed.

108. *Security for good behaviour from persons disseminating seditious matter.*—Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the Local Govern-

ment in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing, disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

(*a*) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, or

(*b*) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate may (in manner hereinafter provided) require such person to shew cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, or printed or published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, except by the order or under the authority of the Governor-General in Council or the Local Government or some officer empowered by the Governor-General in Council in this behalf.

109. *Security for good behaviour from vagrants and suspected persons.*—Whenever a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

110. *Security for good behaviour from habitual offenders.*—Whenever a Presidency Magistrate, District Magistrate, or Subdivisional Magistrate or a Magistrate of the first class

specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction—

(*a*) is by habit a robber, house-breaker or thief, or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(*d*) habitually commits mischief, extortion or cheating or counterfeiting coin, currency notes or stamps, or attempts so to do, or

(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.

111. *Proviso as to European vagrants.*—The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

112. *Order to be made.*—When a Magistrate acting under section 107, section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

113. *Procedure in respect of person present in Court.*—If the person in respect of whom such order is made, is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

114. *Summons or warrant in case of person not so present.*—If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a Police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission

of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

115. *Copy of order under section* 112 *to accompany summons or warrant.*—Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

116. *Power to dispense with personal attendance.*—The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

117. (1) *Inquiry as to truth of information.*—When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases; and, where the order requires security for good behaviour, in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

(3) For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

(4) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

118. (1) *Order to give security.*—If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided—

first, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a

period longer than, that specified in the order made under section 112:

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

thirdly, that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

119. *Discharge of person informed against.*—If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and, if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all cases subsequent to Order to furnish Security.

120. (1) *Commencement of period for which security is required.*—If any person in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

121. *Contents of bond.*—The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

122. *Power to reject sureties.*—A Magistrate may refuse to accept any surety offered under this Chapter, on the ground that, for reasons to be recorded by the Magistrate, such surety is an unfit person.

123. (1) *Imprisonment in default of security.*—If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given, commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such

period he gives the security to the Court or Magistrate who made the order requiring it.

(2) *Proceedings when to be laid before High Court or Court of Session.*—When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge, or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security, shall not exceed three years.

(4) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(5) *Kind of imprisonment.*—Imprisonment for failure to give security for keeping the peace shall be simple.

(6) Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

124. (1) *Power to release persons imprisoned for failing to give security.*—Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by the Court of Session or High Court may be released without hazard to the community, such Magistrate shall make an im-

mediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.

125. *Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.*—The Chief Presidency or District Magistrate may, at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

126. (1) *Discharge of sureties.*—Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(2) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

(3) When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

CHAPTER IX.

UNLAWFUL ASSEMBLIES.

127. (1) *Assembly to disperse on command of Magistrate or Police-officer.*—Any Magistrate or officer in charge of a Police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) This section applies also to the Police in the towns of Calcutta and Bombay.

128. *Use of civil force to disperse.*—If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a Police-station, whether within or without

the Presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act, 1869, and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

129. *Use of military force.*—If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present, may cause it to be dispersed by military force.

130. (1) *Duty of officer commanding troops required by Magistrate to disperse assembly.*—When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869, to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(2) Every such officer shall obey such requisition in such manner as he thinks fit; but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. *Power of commissioned military officers to disperse assembly.*—When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

132. *Protection against prosecution for acts done under this chapter.*—No prosecution against any person for any act purporting to be done under this Chapter shall be instituted

in any Criminal Court, except with the sanction of the Governor-General in Council; and—

(*a*) no Magistrate or Police-officer acting under this Chapter in good faith,

(*b*) no officer acting under section 131 in good faith,

(*c*) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and

(*d*) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

CHAPTER X.

PUBLIC NUISANCES.

133. (1) *Conditional order for removal of nuisance.*—Whenever a District Magistrate, a Subdivisional Magistrate or, when empowered by the Local Government in this behalf, a Magistrate of the first class, considers, on receiving a Police report or other information, and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited, or

that the construction of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owing, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to suppress or remove such trade or occupation; or

to remove such goods or merchandise ; or
to prevent or stop the construction of such building ; or
to remove, repair or support it ; or
to alter the disposal of such substance ; or
to fence such tank, well or excavation, as the case may be ; or
to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A "public place" includes also property belonging to the State, camping-grounds and grounds left unoccupied for sanitary and recreative purposes.

134. (1) *Service or notification of order.*—The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons.

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

135. *Person to whom order is addressed to obey or show cause or claim jury.*—The person against whom such order is made shall—

(*a*) perform, within the time specified in the order, the act directed thereby ; or

(*b*) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

136. *Consequence of his failing to do so.*—If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code, and the order shall be made absolute.

137. (1) *Procedure where he appears to show cause.*—If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

138. (1) *Procedure where he claims jury.*—On receiving an application under section 135 to appoint a jury, the Magistrate shall—

(*a*) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(*b*) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(*c*) fix a time within which they are to return their verdict.

(2) The time so fixed may, for good cause shown, be extended by the Magistrate.

139. (1) *Procedure where jury finds Magistrate's order to be reasonable.*—If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

(2) In other cases, no further proceedings shall be taken under this Chapter.

140. (1) *Procedure on order being made absolute.*—When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

(2) *Consequences of disobedience to order.*—If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the cost of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorise its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

141. *Procedure on failure to appoint jury or omission to return verdict.*—If the applicant by neglect or otherwise pre-

vents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

142. (1) *Injunction pending inquiry.*—If a Magistrate making an order under section 133 consider that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. *Magistrate may prohibit repetition or continuance of public nuisance.*—A District Magistrate or Subdivisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.

CHAPTER XI.

Temporary Orders in Urgent Cases of Nuisance or apprehended Danger.

144. (1) *Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.*—In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, a Subdivisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction,

annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

(3) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(4) Any Magistrate may rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(5) No order under this section shall remain in force for more than two months from the making thereof ; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs.

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

145. (1) *Procedure where dispute concerning land, etc., is likely to cause breach of peace.*—Whenever a District Magistrate, Subdivisional Magistrate or Magistrate of the first class is satisfied from a Police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) *Inquiry as to possession.*—The Magistrate shall then, without reference to the merits of the claims of any of such

parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject:

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date:

Provided also, that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) *Party in possession to retain possession until legally evicted.*—If the Magistrate decides that one of the parties was in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction.

(7) Proceedings under this section shall not abate by reason only of the death of any of the parties there.

146. (1) *Power to attach subject of dispute.*—If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach it until a competent Court has determine the rights of the parties thereto, or the person entitled to possession thereof.

(2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit, appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure.

147. *Disputes concerning easements, etc.*—Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right of use of any land or water (including any right of way or other easement over the same) within the local limits of his jurisdiction, he may inquire into the matter in manner

provided by section 145, and may, if it appears to him that such right exists, make an order permitting such thing to be done, or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done, or claiming that such thing may be done, obtains the decision of a competent Court adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be:

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exerciseable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry; or, where the right is exerciseable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or occasions before such institution.

148. (1) *Local inquiry.*—Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Subdivisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence in the case.

(3) *Order as to costs.*—When any costs have been incurred by any party to a proceeding under this Chapter for witnesses, or pleaders' fees, or both, the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. All costs so directed to be paid may be recovered as if they were fines.

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

149. *Police to prevent cognizable offences.*—Every Police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

150. *Information of design to commit such offences.*—Every Police-officer receiving information of a design to commit any cognizable offence, shall communicate such information to the Police-officer to whom he is subordinate, and to any other

officer whose duty it is to prevent or take cognizance of the commission of any such offence.

151. *Arrest to prevent such offences.*—A Police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

152. *Prevention of injury to public property.*—A Police-officer may, of his own authority, interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

153. (1) *Inspection of weights and measures.*—Any officer in charge of a Police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

154. *Information in cognizable cases.*—Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a Police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

155. (1) *Information in non-cognizable cases.*—When information is given to an officer in charge of a Police-station of

the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

(2) *Investigation into non-cognizable cases.*—No Police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

(3) Any Police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a Police-station may exercise in a cognizable case.

156. (1) *Investigation into cognizable cases.*—Any officer in charge of a Police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(2) No proceeding of a Police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

157. (1) *Procedure where cognizable offence suspected.*—If, from information received or otherwise, an officer in charge of a Police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a Police-report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender :

Provided as follows :—

(*a*) *Where local investigation dispensed with.*—When any information as to the commission of any such offence is given against any person by name, and the case is not of a serious nature, the officer in charge of a Police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot ;

(*b*) *Where Police-officer in charge sees no sufficient ground for investigation.*—If it appear to the officer in charge

of a Police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (*a*) and (*b*) of the proviso to sub-section (1), the officer in charge of the Police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section.

158. (1) *Reports under section* 157 *how submitted.*—Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of Police as the Local Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the Police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

159. *Power to hold investigation or preliminary inquiry.*—Such Magistrate, on receiving such report, may direct an investigation, or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

160. *Police-officer's power to require attendance of witnesses.*—Any Police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

161. (1) *Examination of witnesses by Police.*—Any Police-officer making an investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions, the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

162. (1) *Statements to Police not to be signed or admitted in evidence.*—No statement made by any person to a Police-officer in the course of an investigation under this Chapter shall, if taken down in writing, be signed by the person making it, nor shall such writing be used as evidence:

Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request of the accused, refer to

such writing and may then, if the Court thinks it expedient in the interests of justice, direct that the accused be furnished with a copy thereof : and such statement may be used to impeach the credit of such witness in manner provided by the Indian Evidence Act, 1872.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the Indian Evidence Act, 1872.

163. (1) *No inducement to be offered.*—No Police-officer or person in authority shall offer or make, or cause to be offered or made any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

(2) But no Police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

164. (1) *Power to record statements and confessions.*—Every Magistrate not being a Police-officer may record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

(2) Such statement shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily ; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect :—

"I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.,
Magistrate."

Explanation.—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

165. (1) *Search by Police-officer.*—Whenever an officer in charge of a Police-station, or a Police-officer making an investigation, considers that the production of any document or thing is necessary to the conduct of an investigation into any offence which he is authorised to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or thing according to the directions of the summons or order, or when such document or thing is not known to be in the possession of any person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

(2) Such officer shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or thing for which search is to be made, and the place to be searched; and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to seach-warrants shall, so far as may be, apply to a search made under this section.

166. (1) *When officer in charge of Police-station may require another to issue search-warrant.*—An officer in charge of a Police-station may require an officer in charge of another Police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of the own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

167. (1) *Procedure when investigation cannot be completed in twenty-four hours.*—Whenever it appears that any investigation under this Chapter cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the Police-station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafer prescribed relating to the case, and shall, at the same time, forward the accused (if any) to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

(3) A Magistrate authorising under this section detention in the custody of the Police shall record his reasons for so doing.

(4) If such order is given by a Magistrate other than the District Magistrate, or Subdivisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

168. *Report of investigation by subordinate Police-officer.*—When any subordinate Police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the Police-station.

169. *Release of accused when evidence deficient.*—If, upon an investigation under this Chapter, it appears to the officer in charge of the Police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a Police-report and to try the accused or commit him for trial.

170. (1) *Case to be sent to Magistrate when evidence is sufficient.*—If, upon an investigation under this Chapter, it appears to the officer in charge of the Police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a Police-report and to try the accused or commit him for trial, or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a Police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the

complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the District Magistrate or Subdivisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

(5) The officer in whose presence the bond is executed, shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. *Complainants and witnesses not to be required to accompany Police-officer.*—No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a Police-officer;

Complainants and witnesses not to be subjected to restraint.—Or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Recusant complainant or witness may be forwarded in custody.—Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the Police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. (1) *Diary of proceedings in investigation.*—Every Police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the Police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such in-

quiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the Police-officer who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such Police-officer, the provisions of the Indian Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

173. (1) *Report of Police-officer.*—Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the Police-station shall forward to a Magistrate empowered to take cognizance of the offence on a Police-report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

(2) Where a superior officer of Police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the Police-station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

174. (1) *Police to inquire and report on suicide, etc.*—The officer in charge of a Police-station, or some other Police-officer specially empowered by the Local Government in that behalf, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Subdivisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an

investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such Police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Subdivisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason the Police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorised to hold inquests.

(5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Subdivisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

175. (1) *Power to summon persons.*—A Police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forefeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the Police-officer to attend a Magistrate's Court.

176. (1) *Inquiry by Magistrate into cause of death.*—When any person dies while in the custody of the Police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (*a*), (*b*) and (*c*) of subsection (1), any Magistrate so empowered may hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the Police-officer; and, if he does so, he

shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

(2) *Power to disinter corpses.*—Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

177. *Ordinary place of inquiry and trial.*—Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

178. *Power to order cases to be tried in different session divisions.*—Notwithstanding anything contained in section 177 the Local Government may direct that any cases or class of cases committed for trial in any district may be tried in any sessions divisions:

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861, or under this Code, section 526.

179. *Accused triable in district where act is done or where consequence ensues.*—When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a.*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The

offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(*b.*) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(*c.*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

(*d.*) A is wounded in the Native State of Baroda, and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

180. *Place of trial where act is offence by reason of relation to other offence.*—When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(*a.*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

181. (1) *Being a thug or belonging to a gang of dacoits, escape from custody, etc.*—The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

(2) *Criminal misappropriation and criminal breach of trust.*—The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the

property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

(3) *Stealing.*—The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

(4) *Kidnapping and abduction.*—The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained.

182. *Place of inquiry or trial where scene of offence is uncertain.*—When it is uncertain in which of several local areas an offence was committed, or

or not in one district only—where an offence is committed partly in one local area and partly in another, or

or where offence is continuing—where an offence is a continuing one, and continues to be committed in more local areas than one, or

or consists of several acts—where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

183. *Offence committed on a journey.*—An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

184. *Offences against Railway, Telegraph, Post-office and Arms Acts.*—All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post-office or Arms and Ammunition may be inquired into or tried in a Presidency-town, whether the offence is stated to have been committed within such town or not:

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

185. (1) *High Court to decide, in case of doubt, district where inquiry or trial shall take place.*—Whenever any doubt arises as to the Court by which any offence should, under the preceding provisions of this Chapter, be inquired into or tried, the High Court, within the local limits of whose appellate criminal jurisdiction the offender actually is, may decide by which Court the offence shall be inquired into or tried.

(2) In Lower Burma, when the offender is an European British subject, the Court of the Recorder of Rangoon, and in all other cases the Court of the Judicial Commissioner, shall, for the purposes of this section, be deemed to be the High Court.

186. (1) *Power to issue summons or warrant for offence committed beyond local jurisdiction.*—When a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate, or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India.

Magistrate's procedure on arrest.—Such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent, or bound to appear, the case shall be reported for the orders of the High Court.

187. (1) *Procedure where warrant issued by Subordinate Magistrate.*—If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Subdivisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police-officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

188. *Liability of British subjects for offences committed out of British India.*—When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of British India, or

when any British subject commits an offence in the territories of any Native Prince or Chief in India, or

when a servant of the Queen (whether a British subject or not) commits an offence in the territories of any Native Prince or Chief in India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Political Agents to certify fitness of inquiry into charge.—Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India; and, where there is no Political Agent, the sanction of the Local Government shall be required:

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India, shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879, in respect of the same offence in any territory beyond the limits of British India.

189. *Power to direct copies of depositions and exhibits to be received in evidence.*—Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

B.—Conditions requisite for Initiation of Proceedings.

190. (1) *Cognizance of offences by Magistrates.*—Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Subdivisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a Police-report of such facts ;

(*c*) upon information received from any person other than a Police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(2) The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under sub-section (1), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(3) The Local Government may empower any Magistrate of the first or second class to take cognizance under sub-section (1), clause (*c*), of offences for which he may try or commit for trial.

191. *Transfer or commitment on application of accused.*—When a Magistrate takes cognizance of an offence under sub-section (1), clause (*c*), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate.

192. (1) *Transfer of cases by Magistrates.*—Any Chief Presidency Magistrate, District Magistrate or Subdivisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.

(2) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial ; and such Magistrate may dispose of the case accordingly.

193. (1) *Cognizance of offences by Courts of Session.*—Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

(2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the Local Government by general or special order may direct them to try, or, in the case of Assistant Sessions Judges, as the Sessions Judge of the division, by general or special order, may make over to them for trial.

194. (1) *Cognizance of offences by High Court.*—The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the Indian High Courts Act, 1861, or any other provision of this Code.

(2) (*a*) *Information by Advocate-General.*—Notwithstanding anything in this Code contained, the Advocate-General may, with the previous sanction of the Governor-General in Council or the Local Government, exhibit to the High Court, against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her Majesty's Attorney-General may exhibit informations on behalf of the Crown in the High Court of Justice in England.

(*b*) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney-General so far as the circumstances of the case and the practice and procedure of the said High Court will admit.

(*c*) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

(*d*) The High Court may make rules for carrying into effect the provisions of this section.

195. (1) No Court shall take cognizance—

(*a*) *Prosecution for contempts of lawful authority of public servants.*—Of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, except with the previous sanction, or on the complaint, of the public servant concerned or of some public servant to whom he is subordinate;

(*b*) *Prosecution for certain offences against public justice.*—Of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228 of the same Code, when such offence is committed in, or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate;

(*c*) *Prosecution for certain offences relating to documents given in evidence.*—Of any offence described in section 463 or punishable under section 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

(2) In clauses (*b*) and (*c*) of sub-section (1) the term "Court" means a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the Indian Registration Act, 1877.

(3) The provisions of sub-section (1), with reference to the offences named therein, apply also to the abetment of such offences, and attempts to commit them.

(4) *Nature of sanction necessary.*—The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed.

(5) When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

(6) Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate; and no sanction shall remain in force for more than six months from the date on which it was given: provided that the High Court may, for good cause shewn, extend the time.

(7) For the purposes of this section every Court shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie, that is to say:—

(*a*) where such appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(*b*) where such appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case in connection with which the offence is alleged to have been committed;

(*c*) where no appeal lies, such Court shall be deemed to be subordinate to the principal Court of original jurisdiction within the local limits of whose jurisdiction such first-mentioned Court is situate.

196. *Prosecution for offences against the State.*—No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code (except section 127), or punishable under section 108A, or section 153A or section 294A, or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Governor-General in Council, the Local Government, or some officer empowered by the Governor-General in Council in this behalf.

197. (1) *Prosecution of Judges and public servants.*—When any Judge, or any public servant not removeable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power to give such sanction has not been limited by such Government.

(2) *Power of Government as to prosecution.*—Such Government may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held.

198. *Prosecution for breach of contract, defamation and offences against marriage.*—No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence.

199. *Prosecution for adultery or enticing a married woman.*—No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

200. *Examination of complainant.*—Subject to the provisions of section 476, a Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows:—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192;

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each

case thinks fit, and need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing;

(c) when the case has been transferred under section 192, and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

201. (1) *Procedure by Magistrate not competent to take cognizance of the case.*—If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(2) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

202. (1) *Postponement of issue of process.*—If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to time authorise in this behalf, or any Magistrate of the first or second class, is not satisfied as to the truth of a complaint of an offence of which he is authorised to take cognizance, he may, when the complainant has been examined, record his reasons, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a Police-officer, or by such other person, not being a Magistrate or Police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

(2) If such investigation is made by some person not being a Magistrate or a Police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a Police-station, except that he shall not have power to arrest without warrant.

(3) This section applies also to the Police in the towns of Calcutta and Bombay.

203. *Dismissal of complaint.*—The Magistrate before whom a complaint is made, or to whom it has been transferred, may dismiss the complaint, if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding. In such case he shall briefly record his reasons for so doing.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. (1) *Issue of process.*—If, in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

(2) Nothing in this section shall be deemed to affect the provisions of section 90.

(3) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

205. (1) *Magistrate may dispense with personal attendance of accused.*—Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

206. (1) *Power to commit for trial.*—Subject to the provisions of section 443, any Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class, or any Magistrate empowered in this behalf by the Local Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

(2) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

207. *Procedure in inquiries preparatory to commitment.*—The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court.

208. (1) *Taking of evidence produced.*—The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

(2) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

(3) *Process for production of further evidence.*—If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(4) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

209. (1) *When accused person to be discharged.*—When the evidence referred to in section 208, sub-sections (1) and (3), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case, if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

210. (1) *When charge is to be framed.*—When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

(2) *Charge to be explained, and copy furnished, to accused.*—As soon as the charge has been framed, it shall be read and

explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

211. (1) *List of witnesses for defence on trial.*—The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

(2) *Further list.*—The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time ; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

212. *Power of Magistrate to examine such witnesses.*—The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211.

213. (1) *Order of commitment.*—When the accused, on being required to give in a list under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

(2) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

214. *Person charged outside Presidency-towns jointly with European British subject.*—If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject who is about to be committed for trial, or to be tried before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

215. *Quashing commitments under section* 213 *or* 214.—A commitment once made under section 213 or section 214 by a competent Magistrate or by a Court of Session under section

477, or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law.

216. *Summons to witnesses for defence when accused is committed.*—When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed :

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly.

Refusal to summon unnecessary witness unless deposit made —Provided, also, that, if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may, before summoning him, require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

217. (1) *Bond of complainants and witnesses.*—Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary, and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

(2) *Detention in custody in case of refusal to attend or to execute bond.*—If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

218. (1) *Commitment when to be notified.*—When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge ;

Charge, &c., to be forwarded to High Court or Court of Session.—And shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

(2) *English translation to be forwarded to High Court.*—When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

219. (1) *Power to summon supplementary witnesses.*—The Magistrate may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

(2) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

220. *Custody of accused pending trial.*—Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused, by warrant, to custody.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

221. (1) *Charge to state offence.*—Every charge under this Code shall state the offence with which the accused is charged.

(2) *Specific name of offence sufficient description.*—If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(3) *How stated where offence has no specific name.*—If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) *What implied in charge.*—The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(6) *Language of charge.*—In the Presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court.

(7) *Previous conviction when to be set out.*—If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date and place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

Illustrations.

(*a.*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception I, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

222. (1) *Particulars as to time, place and person.*—The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234:

Provided that the time included between the first and last of such dates shall not exceed one year.

223. *When manner of committing offence must be stated.*—When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

224. *Words in charge taken in sense of law under which offence is punishable.*—In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

225. *Effect of errors.*—No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between

A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled and that the error was material.

226. *Procedure on commitment without charge or with imperfect charge* —When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge, or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Illustrations.

1. A is charged with the murder of C. A charge of abetting the murder of C may be added or substituted.

2. A is charged with forging a valuable security under section 467 of the Indian Penal Code. A charge of fabricating false evidence under section 193 may be added.

3. A is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Indian Penal Code cannot be added.

227. (1) *Court may alter charge.*—Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

(2) Every such alteration or addition shall be read and explained to the accused.

228. *When trial may proceed immediately after alteration.*—If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or

made, proceed with the trial as if the new or altered charge had been the original charge.

229. *When new trial may be directed, or trial suspended.*—If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

230. *Stay of proceedings if prosecution of offence in altered charge require previous sanction.*—If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

231. *Recall of witnesses when charge altered.*—Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

232. (1) *Effect of material error.*—If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(2) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence, under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge ; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of Charges.

233. *Separate charges for distinct offences.*—For every distinct offence of which any person is accused there shall be

a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

234. (1) *Three offences of same kind within year may be charged together.*—When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code or of any special or local law.

235. (1) *Trial for more than one offence.*—If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(2) *Offence falling within two definitions.*—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

(3) *Acts constituting one offence, but constituting when combined a different offence.*—If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(4) Nothing contained in this section shall affect the Indian Penal Code, section 71.

Illustrations

to sub-section (1)—

(*a.*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code.

(*b.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be

separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

(*c.*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(*d.*) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(*e.*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(*f.*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(*g.*) A, with six others, commits the offences of rioting, griveous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code.

(*h.*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time.

to sub-section (2)—

(*i.*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of offences under sections 352 and 323 of the Indian Penal Code.

(*j.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(*k.*) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

(*l.*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code.

to sub-section (3)—

(*m.*) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code.

236. *Where it is doubtful what offence has been committed.* —If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once ; or he may be charged in the alternative with having committed some one of the said offences.

Illustrations.

(*a*). A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(*b.*) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

237. (1) *When a person is charged with one offence, he can be convicted of another.*—If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

(2) When the accused is charged with an offence, he may be convicted of having attempted to commit that offence, although the attempt is not separately charged.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

238. (1) *When offence proved included in offence charged.* —When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(3) Nothing in this section shall be deemed to authorise a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations.

(*a.*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b.*) A is charged, under section 325 of the Indian Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

239. *What persons may be charged jointly.*—When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit; and the provisions contained in the former part of this Chapter shall apply to all such charges.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

240. *Withdrawal of remaining charges on conviction on one of several charges.*—When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

241. *Procedure in summons-cases.*—The following procedure shall be observed by Magistrates in the trial of summons-cases.

242. *Substance of accusation to be stated.*—When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted ; but it shall not be necessary to frame a formal charge.

243. *Conviction on admission of truth of accusation.*—If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him ; and, if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

244. (1) *Procedure when no such admission is made.*—If the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

(2) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

(3) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

245. (1) *Acquittal.*—If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

(2) *Sentence.*—If he finds the accused guilty, he shall pass sentence upon him according to law.

246. *Finding not limited by complaint or summons.*—A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

247. *Non-appearance of complainant.*—If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day:

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

248. *Withdrawal of complaint.*—If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

249. *Power to stop proceedings when no complainant.*—In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

Frivolous Accusations in Summons and Warrant-cases.

250. (1) *Frivolous or vexatious accusations.*—If, in any case instituted by complaint as defined in this Code, or upon information given to a Police-officer or to a Magistrate, a person is accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit:

Provided that, before making any such direction, the Magistrate shall—

(*a*) record and consider any objection which the complainant or informant may urge against the making of the direction, and,

(*b*) if the Magistrate directs any compensation to be paid, state in writing, in his order of discharge or acquittal, his reasons for awarding the compensation.

(2) Compensation of which a Magistrate has ordered payment under sub-section (1) shall be recoverable as if it were a fine:

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

(3) A complainant or informant who has been ordered under sub-section (1) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) Where an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any compensation paid or recovered under this section.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

251. *Procedure in warrant-cases.*—The following procedure shall be observed by Magistrates in the trial of warrant-cases.

252. (1) *Evidence for prosecution.*—When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

(2) The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

253. (1) *Discharge of accused.*—If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which,

if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

254. *Charge to be framed when offence appears proved.*—If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

255. (1) *Plea.*—The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(2) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

256. (1) *Defence.*—If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so wish, the witnesses named by him shall be re-called, and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-examination (if any), they also shall be discharged. The accused shall then be called upon to enter upon his defence and produce his evidence.

(2) If the accused puts in any written statement, the Magistrate shall file it with the record.

257. (1) *Process for compelling production of evidence at instance of accused.*—If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the

charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(2) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

258. (1) *Acquittal.*—If in any case under this chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(2) *Conviction.*—If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.

259. *Absence of complainant.*—When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

CHAPTER XXII.

Of Summary Trials.

260. (1) *Power to try summarily.*—Notwithstanding anything contained in this Code—

(*a*) the District Magistrate,

(*b*) any Magistrate of the first class specially empowered in this behalf by the Local Government, and

(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by the Local Government,

may, if he or they think fit, try in a summary way all or any of the following offences :—

(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;

(*b*) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code ;

(*c*) hurt, under section 323 of the same Code ;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees ;

(*e*) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees ;

(*f*) receiving or retaining stolen property, under section 411 of the same Code, where the value of such property does not exceed fifty rupees ;

(*g*) assisting in the concealment or disposal of stolen property under section 414 of the same Code, where the value of such property does not exceed fifty rupees ;

(*h*) mischief, under section 427 of the same Code ;

(*i*) house-trespass, under section 448 and offences under sections 451, 456 and 457 of the same Code ;

(*j*) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code ;

(*k*) abetment of any of the foregoing offences ;

(*l*) an attempt to commit any of the foregoing offences, when such attempt is an offence ;

(*m*) offences under section 20 of the Cattle-trespass Act, 1871 :

Provided that no case in which a Magistrate exercises the special powers conferred by section 34, shall be tried in a summary way.

(2) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to re-hear the case in manner provided by this Code.

261. *Power to invest Bench of Magistrates invested with less power.*—The Local Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

(*a*) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426 and 447 ;

(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine, or with imprisonment for a term not exceeding one month ;

(*c*) abetment of any of the foregoing offences ;

(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.

262. (1) *Procedure for summons and warrant-cases applicable.*—In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases, shall be followed in warrant-cases, except as hereinafter mentioned.

(2) *Limit of imprisonment.*—No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

263. *Record in cases where there is no appeal.*—In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the Local Government may direct the following particulars :—

(*a*) the serial number ;

(*b*) the date of the commission of the offence ;

(*c*) the date of the report or complaint ;

(*d*) the name of the complainant (if any) ;

(*e*) the name, parentage and residence of the accused ;

(*f*) the offence complained of and the offence (if any) proved, and in cases coming under clause (*d*), clause (*e*), clause (*f*) or clause (*g*) of sub-section (1) of section 260 the value of the property in respect of which the offence has been committed ;

(*g*) the plea of the accused and his examination (if any) ;

(*h*) the finding, and, in the case of a conviction, a brief statement of the reasons therefor ;

(*i*) the sentence or other final order ; and

(*j*) the date on which the proceedings terminated.

264. (1) *Record in appealable cases.*—In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

(2) Such judgment shall be the only record in cases coming within this section.

265. (1) *Language of record and judgment.*—Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

(2) *Bench may be authorised to employ clerk.*—The Local Government may authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(3) If no such authorisation be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

A.—Preliminary.

266. "*High Court*" *defined.*—In this Chapter, except in sections 276 and 307, and in Chapter XVIII, the expression "High Court" means a High Court of Judicature established or to be established under the Indian High Courts Acts, 1861, and includes the Chief Court of the Punjab, the Court of the Recorder of Rangoon and such other Courts as the Governor-General in Council may, by notification in the *Gazette of India*, declare to be High Courts for the purposes of this Chapter.

267. *Trials before High Court to be by jury.*—All trials under this Chapter before a High Court shall be by jury;

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the Indian High Courts Act, 1861, the trial may, if the High Court so directs, be by jury.

268. *Trials before Court of Session to be by jury or with assessors.*—All trials before a Court of Session shall be either by jury, or with the aid of assessors.

269. (1) *Local Government may order trials before Court of Session to be by jury.*—The Local Government may, with the previous sanction of the Governor-General in Council, by order in the official Gazette, direct that the trial of all offences or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may, with the like sanction, revoke or alter such order.

(2) The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the Judge, on application made to him or of his own motion, so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(3) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury, for such of those offences as are triable by jury, and by the Court of Session, with the aid

of the jurors as assessors, for such of them as are not triable by jury.

270. *Trials before Court of Session to be conducted by Public Prosecutor.*—In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

271. (1) *Commencement of trial.*—When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

(2) *Plea of guilty.*—If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

272. *Refusal to plead or claim to be tried.*—If the accused refuses to. or does not, plead. or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Trial by same jury or assessors of several offenders in succession.—Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

273. (1) *Entry on sustainable charges.*—In trials before the High Court, when it appears to the High Court, at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

(2) *Effect of entry.*—Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

C.—Choosing a Jury.

274. (1) *Number of jury.*—In trials before the High Court the jury shall consist of nine persons.

(2) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than three, or more than nine, as the Local Government, by order applicable to any particular district to any particular class of offences in that district, may direct.

275. *Jury for trial of persons not Europeans or Americans before Court of Session.*—In a trial by jury before the Court of Session of a person not being an European or an American,

a majority of the jury shall, if he so desires, consists of persons who are neither Europeans nor Americans.

276. *Jurors to be chosen by lot.*—The jurors shall be chosen by lot from the persons summoned to act as such, in such manner as the High Court may from time to time by rule direct:

Provided that—

Existing practice maintained—first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed;

Persons not summoned when eligible—secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present:

Trials before special jurors—thirdly, in the Presidency-towns—

(*a*) if the accused person is charged with having committed an offence punishable with death, or

(*b*) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed; and

fourthly, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

277. (1) *Names of jurors to be called.*—As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror.

(2) *Objection to jurors.*—Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated:

Objection without grounds stated.—Provided that, in the High Court, objections without ground stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

278. *Grounds of objection.*—Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed—

(*a*) some presumed or actual partiality in the juror;

(*b*) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force

of law for the time being in force, or being under the age of twenty-one or above the age of sixty years ;

(*c*) his having by habit or religious vows relinquished all care of worldly affairs ;

(*d*) his holding any office in or under the Court ;

(*e*) his executing any duties of Police or being entrusted with Police-duties ;

(*f*) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;

(*g*) his inability to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted ;

(*h*) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

279. (1) *Decision of objection.*—Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

(2) *Supply of place of juror against whom objection allowed.*—If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury :

Provided that no objection to such juror or other person is taken under section 278 and allowed.

280. (1) *Foreman of jury.*—When the jurors have been chosen, they shall appoint one of their number to be foreman.

(2) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

(3) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

281. *Swearing of jurors.*—When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873.

282. (1) *Procedure when juror ceases to attend, &c.*—If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given, or, when such

evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

(2) In each of such cases the trial shall commence anew.

283. *Discharge of jury in case of sickness of prisoner.*—The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

D.—Choosing Assessors.

284. *Assessors how chosen.*—When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such.

285. (1) *Procedure when assessor is unable to attend.*—If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

(2) If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

E.—Trial to close of Cases for Prosecution and Defence.

286. (1) *Opening case for prosecution.*—When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

(2) *Examination of witnesses.*—The prosecutor shall then examine his witnesses.

287. *Examination of accused before Magistrate to be evidence.*—The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.

288. *Evidence given at preliminary inquiry admissible.*—The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case.

289. (1) *Procedure after examination of witnesses for prosecution.*—When the examination of the witnesses for the prosecution and the examination (if any) of the accused are

concluded, the accused shall be asked whether he means to adduce evidence.

(2) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(3) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(4) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

290. *Defence.*—The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

291. *Right of accused as to examination and summoning of witnesses.*—The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

292. *Prosecutor's right of reply.*—If the accused, or any of the accused, adduces any evidence, the prosecutor shall be entitled to reply.

293. (1) *View by jury or assessors.*—Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place,

which shall be shown to them by a person appointed by the Court.

(2) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

294. *When juror or assessor may be examined.*—If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

295. *Jury or assessors to attend at adjourned sitting.*—If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

296. *Locking up jury.*—The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; and, subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in Cases tried by Jury.

297. *Charge to jury.*—In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

298. (1) *Duty of Judge.*—In such cases it is the duty of the Judge—

(*a*) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial;

(*c*) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(*d*) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(2) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(*a*.) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(*b*.) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

299. *Duty of jury*.—It is the duty of the jury—

(*a*) to decide which view of the facts is true and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(*b*) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(*c*) to decide all questions which according to law are to be deemed questions of fact;

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

(*a*.) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b*.) The question is whether a person entertained a reasonable belief on a particular point,—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

300. *Retirement to consider.*—In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

301. *Delivery of verdict.*—When the jury have considered their verdict the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

302. *Procedure where jury differ.*—If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

303. (1) *Verdict to be given on each charge.*—Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried,

Judge may question Jury.—And the Judge may ask them such questions as are necessary to ascertain what their verdict is.

(2) *Questions and answers to be recorded.*—Such questions and the answers to them shall be recorded.

304. *Amending verdict.*—When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

305. (1) *Verdict in High Court when to prevail.*—When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(2) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

(3) *Discharge of jury in other cases.*—If the Judge disagrees with the majority, he shall at once discharge the jury.

(4) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

306. (1) *Verdict in Court of Session when to prevail.*—When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

307. (1) *Procedure where Sessions Judge disagrees with verdict.*—If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed.

(2) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody or admit him to bail.

(3) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

308. *Re-trial of accused after discharge of jury.*—Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury, unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

H.—Conclusion of Trial in Cases tried with Assessors.

309. (1) *Delivery of opinions of assessors.*—When, in case tried with the aid of assessors, the case for the defen and the prosecutor's reply (if any) are concluded, the Cou may sum up the evidence for the prosecution and defence, a shall then require each of the assessors to state his opin orally, and shall record such opinion.

(2) *Judgment.*—The Judge shall then give judgment, but doing so shall not be bound to conform to the opinions of assessors.

(3) If the accused is convicted, the Judge shall pass sentence on him according to law.

I.—Procedure in Case of Previous Conviction.

310. *Procedure in case of previous conviction.*—In the case of a trial by jury or with the aid of assessors, where the accused is charged with an offence committed after a previous conviction for any offence, the procedure laid down in sections 271, 286, 305, 306 and 309 shall be modified as follows:—

(*a*) the part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence:

(*b*) if he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the charge:

(*c*) if he answers that he has been so previously convicted, the Judge may proceed to pass sentence on him accordingly, but, if he denies that he has been so previously convicted, or refuses to, or does not, answer such questions, the jury, or the Court and the assessors (as the case may be), shall then hear evidence concerning such previous conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

311. *When evidence of previous conviction may be given.*—Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872.

J.—List of Jurors for High Court, and summoning Jurors for that Court.

312. *Number of special jurors.*—The names of not more than four hundred persons shall at any one time be entered in the special jurors' list.

313. (1) *Lists of common and special jurors.*—The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare—

(*a*) a list of all persons liable to serve as common jurors; and

(*b*) a list of persons liable to serve as special jurors only.

(2) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(3) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

(4) The Governor-General in Council in the case of the High Court at Fort William in Bengal, and, in the case of other High Courts, the Local Government, may exempt any salaried officer of Government from serving as a juror.

(5) *Discretion of officer preparing lists.*—The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

314. (1) *Publication of lists, preliminary and revised.*—Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

(2) Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

(3) Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

315. (1) *Number of jurors to be summoned in Presidency-towns.*—Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each Presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

(2) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

(3) *Supplementary summons.*—If, during the continuance of any sessions it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

316. *Summoning jurors outside the Presidency-towns.*—Whenever a High Court has given notice of its intention to hold sittings at any place outside the Presidency-towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, *in* the manner hereinafter prescribed for summoning jurors to the Court of Session.

317. (1) *Military jurors.*—In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks

needful, after communication with the commanding officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's Army resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

(2) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his commanding officer desires to have excused on the ground of urgent military duty or for any other special military reason.

318. *Failure of jurors to attend.*—Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit; and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid:

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

319. *Liability to serve as jurors or assessors.*—All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside, or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

320. *Exemptions.*—The following persons are exempt from liability to serve as jurors or assessors, namely:—

(*a*) officers in civil employ superior in rank to a District Magistrate;

(*b*) salaried Judges;

(*c*) Commissioners and Collectors of Revenue or Customs;

(*d*) Police-officers and persons engaged in the Preventive Service in the Customs Department;

(*e*) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;

(*f*) persons actually officiating as priests or ministers of their respective religions ;

(*g*) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors ;

(*h*) surgeons and others who openly and constantly practise the medical profession ;

(*i*) legal practitioners (as defined by the Legal Practitioners Act, 1879) in actual practice ;

(*j*) persons employed in the Post-office and Telegraph Departments ;

(*k*) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641 ;

(*l*) other person exempted by the Local Government from liability to serve as jurors or assessors.

321. (1) *List of jurors and assessors.*—The Sessions Judge, and the Collector of the district or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (*b*) to (*h*), both inclusive.

(2) The list shall contain the name, place of abode and quality or business of every such person ; and, if the person is an European or an American, the list shall mention the race to which he belongs.

322. *Publication of list.*—Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the Court-houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside.

323. *Objections to list.*—To every such copy or extract shall be subjoined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the Sessions Court-house, and at a time to be mentioned in the notice.

324. (1) *Revision of list.*—For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike

out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may establish his right to any exemption from service given by section 320, and insert the name of any person omitted from the list whom they deem qualified for such service.

(2) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

(3) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

(4) Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

(5) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

(6) *Annual revision of list.*—The list so prepared and revised shall be again revised once in every year.

(7) The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

325. *Preparation of list of special jurors.*—In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury.

326. (1) *District Magistrate to summon jurors and assessors.*—The Sessions Judge shall ordinarily, seven days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list or the said special list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any such trial.

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

327. *Power to summon another set of jurors or assessors* — The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever for other reasons such direction is found to be necessary.

328. *Form and contents of summons.*—Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

329. *When Government or Railway servant may be excused.*—When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

330. (1) *Court may excuse attendance of juror or assessor.*— The Court of Session may, for reasonable cause, excuse any juror or assessor from attendance at any particular session.

(2) *Court may relieve special jurors from liability to serve again as jurors for twelve months.*—The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

331. (1) *List of jurors and assessors attending.*—At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

(2) Such list shall be kept with the list of the jurors and assessors as revisep under section 324.

(3) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

332. (1) *Penalty for non-attendance of juror or assessor.*— Any person summoned to attend as a juror or as an assessor

who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

(2) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

(3) For good cause shewn, the Court may remit or reduce any fine so imposed.

(4) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for High Courts.

333. *Power of Advocate-General to stay prosecution.*—At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate-General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

334. *Time of holding sittings.*—For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

335. (1) *Place of holding sittings.*—The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor-General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

(2) But it may, from time to time, in the case of the High Court at Fort William with the consent of the Governor-General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

(3) *Notice of sittings.*—Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. *Place of trial of European British subjects.*—The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court, or direct that they shall be tried at a particular place named.

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

337. (1) *Tender of pardon to accomplice.*—In the case of any offence triable exclusively by the Court of Session or High Court, the District Magistrate, a Presidency Magistrate, any Magistrate of the first class inquiring into the offence, or, with the sanction of the District Magistrate, any other Magistrate, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence, and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) Every person accepting a tender under this section shall be examined as a witness in the case.

(3) Such person, if not on bail, shall be detained in custody until the termination of the trial by the Court of Session or High Court, as the case may be.

(4) Every Magistrate, other than a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing; and, when any Magistrate has made such tender and examined the person to whom it has been made, he shall not try the case himself, although the offence which the accused appears to have committed may be triable by such Magistrate.

338. *Power to direct tender of pardon.*—At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

339. (1) *Commitment of person to whom pardon has been tendered.*—Where a pardon has been tendered under section

337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

(2) The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been forfeited under this section.

(3) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

340. *Right of accused to be defended.*—Every person accused before any Criminal Court may of right be defended by a pleader.

341. *Procedure where accused does not understand proceedings.*—If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

342. (1) *Power to examine the accused.*—For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial, without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined, and before he is called on for his defence.

(2) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

(3) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(4) No oath shall be administered to the accused.

343. *No influence to be used to induce disclosures.*—Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

344. (1) *Power to postpone or adjourn proceedings.*—If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody :

Remand.—Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

(2) Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

EXPLANATION.—*Reasonable cause for remand.*—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

345. (1) *Compounding offences.*—The offences punishable under the sections of the Indian Penal Code described in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that table :—

Offence.	Sections of Indian Penal Code applicable.	Person by whom offence may be compounded.
Uttering words, &c., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.

Offence.	Sections of Indian Penal Code applicable.	Persons by whom offence may be compounded.
Assault or use of criminal force.	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour...	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass ...	447	The person in possession of the property trespassed upon.
House-trespass ...	448	
Criminal breach of contract of service.	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with a criminal intent a married woman.	498	
Defamation	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.

(2) The offences of causing hurt and grievous hurt, punishable under section 324, section 325, section 335, section 337, or section 338 of the Indian Penal Code, may, with the

permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom the hurt has been caused.

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot or a lunatic, any person competent to contract on his behalf may compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) The composition of an offence under this section shall have the effect of an acquittal of the accused.

(7) No offence shall be compounded except as provided by this section.

346. (1) *Procedure of Provincial Magistrate in cases which he cannot dispose of.*—If, in the course of an inquiry or a trial before a Magistrate in any district outside the Presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate, or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

347. (1) *Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.*—If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions hereinbefore contained.

(2) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

348. *Trial of persons previously convicted of offences against coinage, stamp-law or property.*—Whoever, having been con-

victed of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall be committed to the Court of Session or High Court, as the case may be, unless the Magistrate before whom the proceedings are pending is of opinion that he can himself pass an adequate sentence if the accused is convicted :

Provided that, if the District Magistrate has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

349. (1) *Procedure when Magistrate cannot pass sentence sufficiently severe.*—Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Subdivisional Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law :

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

350. (1) *Conviction or commitment an evidence partly recorded by one Magistrate and partly by another.*—Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and re-commence the inquiry or trial :

Provided as follows :—

(*a*) In any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;

(*b*) the High Court or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(2) Nothing in this section applies to cases in which proceedings have been stayed under section 346.

351. (1) *Detention of offenders attending Court.*—Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(2) When the detention takes place in the course of an inquiry under Chapter XVIII, or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

352. *Courts to be open.*—The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

Of the Mode of Taking and Recording Evidence in Inquiries and Trials.

353. *Evidence to be taken in presence of accused.*—Except as otherwise expressly provided all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

354. *Manner of recording evidence outside Presidency-towns.*—In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

355. (1) *Record in summons-cases and in trials of certain offences by first and second-class Magistrates.*—In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (1) of section 260, clauses (*b*) to (*m*), both inclusive, when tried by a Magistrate of the first or second class, and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(2) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(3) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

356. (1) *Record in other cases outside Presidency-towns.*—In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates) and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court, by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence, and shall be signed by the Magistrate or Sessions Judge.

(2) *Evidence given in English.*—When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

(3) *Memorandum when evidence not taken down by the Magistrate or Judge himself.*—In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

(4) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

357. (1) *Language of record of evidence.*—The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

(2) The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

Provided that the Local Government may direct the Sessions Judge or Magistrate to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

358. *Option to Magistrate in cases under section* 355.—In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the Local Government has made the order referred to in section 357, in the manner provided in the same section.

359. (1) *Mode of recording evidence under section* 356 *or section* 357.—Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

(2) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

360. (1) *Procedure in regard to such evidence when completed.*—As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(3) If the evidence is taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the

evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

361. (1) *Interpretation of evidence to accused or his pleader.*—Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

362. (1) *Record of evidence in Presidency Magistrates' Courts.*—In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

(2) Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

(3) Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

363. *Remarks respecting demeanour of witness.*—When a Sessions Judge or Magistrate has recorded the evidence of a witness he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

364. (1) *Examination of accused how recorded.*—Whenever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter or the Chief Court of the Punjab, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English: and such record shall be shown or read to him, or if he does not understand the language in which it is written, shall be interpreted to him in a language

which he understands, and he shall be at liberty to explain or add to his answers.

(2) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing, and that the record contains a full and true account of the statement made by the accused.

(3) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presidency Magistrate, as the examination proceeds to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language ; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(4) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

365. *Record of evidence in High Court.*—Every High Court established by Royal Charter and the Chief Court of the Punjab may, from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

CHAPTER XXVI.

OF THE JUDGMENT.

366. (1) *Mode of delivering judgment.*—The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands :

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought up; or, if not in custody, be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(3) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

367. (1) *Language of judgment.*—Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English;

Contents of judgment—And shall contain the point or points for determination, the decision thereon and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

(2) It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which the accused is convicted, and the punishment to which he is sentenced.

(3) *Judgment in alternative.*—When the conviction is under the Indian Penal Code, and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(5) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed:

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

368. (1) *Sentence of death.*—When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(2) *Sentence of transportation.*—No sentence of transportation shall specify the place to which the person sentenced is to be transported.

369. *Court not to alter judgment.*—No Court, other than a High Court, when it has signed its judgment, shall alter or review the same, except as provided in sections 395 and 484 or to correct a clerical error.

370. *Presidency Magistrate's judgment.*—Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(*a*) the serial number of the case ;

(*b*) the date of the commission of the offence ;

(*c*) the name of the complainant (if any) ;

(*d*) the name of the accused person, and (except in the case of an European British subject) his parentage and residence ;

(*e*) the offence complained of or proved ;

(*f*) the plea of the accused and his examination (if any);

(*g*) the final order ;

(*h*) the date of such order ; and

(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, brief statement of the reasons for the conviction.

371. (1) *Copy of judgment, etc., to be given to accused on application.*—On the application of the accused a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

(2) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the application of the accused, be given to him without delay and free of cost.

(3) *Case of person sentenced to death.*—When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

372. *Judgment when to be translated.*—The original judgment shall be filed with the record of proceedings, and where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

373. *Court of Session to send copy of finding and sentence to District Magistrate.*—In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

374. *Sentence of death to be submitted by Court of Session.*—When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

375. (1) *Power to direct further inquiry to be made or additional evidence to be taken.*—If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(2) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(3) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

376. *Power of High Court to confirm sentence or annul conviction.*—In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

(*b*) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

377. *Confirmation or new sentence to be signed by two Judges.*—In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

378. *Procedure in case of difference of opinion.*—When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case with their opinions thereon, shall be laid before another Judge, and such

Judge, after such hearing as he thinks fit, shall deliver his opinion. and the judgment or order shall follow such opinion.

379. *Procedure in cases submitted to High Court for confirmation.*—In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

380. *Procedure in cases submitted by Magistrate not empowered to act under section* 562.—Where proceedings are submitted to a Magistrate of the first class or a Subdivisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

CHAPTER XXVIII.

Of Execution.

381. *Execution of order passed under section* 376.—When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

382. *Postponement of capital sentence on pregnant woman.*—If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute the sentence to transportation for life.

383. *Execution of sentences of transportation or imprisonment in other cases.*—Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

384. *Direction of warrant for execution.*—Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

385. *Warrant with whom to be lodged.*—When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

386. *Warrant for levy of fine.*—Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

387. *Effect of such warrant.*—Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorise the distress and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

388. (1) *Suspension of execution of sentence of imprisonment.*—When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 386, it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond ; and in the event of the fine not having been realized, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) In any case in which an order for the payment of money has been made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the Court may require the person ordered to make such payment to enter into a bond as prescribed in sub-section (1), and in default of his so doing may at once pass sentence of imprisonment as if the money had not been recovered.

389. *Who may issue warrant.*—Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.

390. *Execution of sentence of whipping only.*—When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct.

391. (1) *Execution of sentence of whipping, in addition to imprisonment.*—When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence, or if an appeal is made within that time, until the sentence is confirmed by the Appellate Court; but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

(2) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

(3) No accused person shall be sentenced to whipping in addition to imprisonment when the term of imprisonment to which he is sentenced, is less than three months.

392. (1) *Mode of inflicting punishment.*—In the case of a person of or over sixteen years of age, whipping shall be inflicted with a light ratan not less than half an inch in diameter, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instrument, as the Local Government directs.

(2) *Limit of number of stripes.*—In no case shall such punishment exceed thirty stripes.

393. *Not to be executed by instalments.*—No sentence of whipping shall be executed by instalments:

Exemptions—And none of the following persons shall be punishable with whipping (namely):—

(*a*) females;

(*b*) males sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years;

(*c*) males whom the Court considers to be more than forty-five years of age.

394. (1) *Whipping not to be inflicted if offender not in fit state of health.*—The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

(2) *Stay of execution.*—If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

395. (1) *Procedure if punishment cannot be inflicted under section* 394.—In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence, can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(2) Nothing in this section shall be deemed to authorise any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

396. (1) *Execution of sentences on escaped convicts.*—When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say:—

(2) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(3) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

Explanation.—For the purposes of this section—

(*a*) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment;

(*b*) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(*c*) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

397. *Sentence on offender already sentenced for another offence.*—When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence

at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced :

Provided that if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

398. (1) *Saving as to sections* 396 *and* 397.—Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

399. (1) *Confinement of youthful offenders in reformatories.*—When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein.

(2) All persons confined under this section shall be subject to the rules so prescribed.

(3) This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force.

400. *Return of warrant on execution of sentence.*—When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

401. (1) *Power to suspend or remit sentences.*—When any person has been sentenced to punishment for an offence, the Governor-General in Council or the Local Government may at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the Governor-General in Council or the Local Government for the suspension or remission of a sentence, the Governor-General in Council or the Local Government, as the case may be, may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

(3) If any condition on which a sentence has been suspended or remitted, is, in the opinion of the Governor-General in Council or of the Local Government, as the case may be, not fulfilled, the Governor-General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted, may, if at large, be arrested by any Police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted, under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites, or remissions of punishment.

(6) The Governor-General in Council and the Local Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

402. *Power to commute punishment.*—The Governor-General in Council, or the Local Government, may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :—

Death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS.

403. (1) *Person once convicted or acquitted not to be tried for same offence.*—A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub-section (1).

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897, or of section 188 of this Code.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b.*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c.*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e.*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of the section.

(*f.*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g.*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.

404. *Unless otherwise provided, no appeal to lie.*—No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

405. *Appeal from order rejecting application for restoration of attached property.*—Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court, may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

406. *Appeal from order requiring security for good behaviour.*—Any person ordered by a Magistrate other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 118 may appeal to the District Magistrate.

407. (1) *Appeal from sentence of Magistrate of the second or third class.*—Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 by a Subdivisional Magistrate of the second class, may appeal to the District Magistrate.

(2) *Transfer of appeals to first class Magistrate.*—The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any

Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such Subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such Subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

408. *Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.*— Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 by a Magistrate of the first class may appeal to the Court of Session:

Provided as follows:—

(*a*) any European British subject so convicted may, at his option, appeal either to the High Court or the Court of Session;

(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal shall lie to the High Court;

(*c*) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code, the appeal shall lie to the High Court.

409. *Appeals to Court of Session how heard.*—An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge.

410. *Appeal from sentence of Court of Session.*—Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court.

411. *Appeal from sentence of Presidency Magistrate.*—Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

412. *No appeal in certain cases when accused pleads guilty.*—Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

413. *No appeal in petty cases.*—Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted

person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

414. *No appeal from certain summary convictions.*—Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

415. *Proviso to sections* 413 *and* 414.—An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal, shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

Explanation.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

416. *Saving of sentences on European British subjects.*—Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII on European British subjects.

417. *Appeal on behalf of Government in case of acquittal.*—The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

418. *Appeal on what matters admissible.*—An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

419. *Petition of appeal.*—Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court

to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

420. *Procedure when appellant in jail.*—If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

421. (1) *Summary dismissal of appeal.*—On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(2) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

422. *Notice of appeal.*—If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the Local Government may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal;

and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

423. (1) *Powers of Appellate Court in disposing of appeal.*—The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(*b*) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate

to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or, (3) with or without such reduction and with or without altering the finding, alter the nature of the sentence but, subject to the provisions of section 106, sub-section (3), not so as to enhance the same ;

(*c*) in an appeal from any other order, alter or reverse such order ;

(*d*) make any amendment or any consequential or incidental order that may be just or proper.

(2) Nothing herein contained shall authorise the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

424. *Judgments of Subordinate Appellate Courts.*—The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court :

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

425. (1) *Order by High Court on appeal to be certified to lower Court.*—Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court ; and, if necessary, the record shall be amended in accordance therewith.

426. (1) *Suspension of sentence pending appeal.*—Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and,

Release of appellant on bail—Also, if he is in confinement, that he be released on bail or on his own bond.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of

any appeal by a convicted person to a Court subordinate thereto.

(3) When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

427. *Arrest of accused in appeal from acquittal.*—When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

428. (1) *Appellate Court may take further evidence or direct it to be taken.*—In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors or assessors.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.

429. *Procedure where Judges of Court of Appeal are equally divided.*—When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

430. *Finality of orders on appeal.*—Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

431. *Abatement of appeals.*—Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

CHAPTER XXXII.

OF REFERENCE AND REVISION.

432. *Reference by Presidency Magistrate to High Court.*—A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

433. (1) *Disposal of case according to decision of High Court.*—When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

(2) *Direction as to costs.*— The High Court may direct by whom the costs of such reference shall be paid.

434. (1) *Power to reserve questions arising in original jurisdiction of High Court.*—When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two on more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

(2) *Procedure when question reserved.*—If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail ; and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit.

435. (1) *Power to call for records of inferior Courts.*—The High Court or any Sessions Judge or District Magistrate, or any Subdivisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or

propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior C ourt.

(2) If any Subdivisional Magistrate acting under sub-section (1) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(3) Orders made under sections 143 and 144 and proceedings under Chapter XII and section 176 are not proceedings within the meaning of this section.

(4) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

436. *Power to order commitment.*—When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged :

Provided as follows :—

(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;

(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

437. *Power to order inquiry.*—On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any accused person who has been discharged.

438. (1) *Report to High Court.*—The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination,

and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and if the accused is in confinement that he be released on bail or on his own bond.

(2) An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this chapter in respect of any case which may be transferred to him by the Sessions Judge.

439. (1) *High Court's powers of revision.*—In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 195, 423, 426, 427 and 428, or on a Court by section 338, and may enhance the sentence; and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(4) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

440. *Optional with Court to hear parties*—No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision:

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (2).

441. *Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.*—When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the

issue; and the Court shall consider such statement before over-ruling or setting aside the said decision or order.

442. *High Court's order to be certified to lower Court or Magistrate.*—When a case is revised under this Chapter by the High Court, it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.

443. *Magistrates who may inquire into and try charges against European British subjects.*—No Magistrate, unless he is a Justice of the Peace, and (except in the case of a District Magistrate or Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

444. *Sessions Judge to be an European British subject.*—No Judge presiding in a Court of Session, except the Sessions Judge, shall exercise jurisdiction over an European British subject unless he himself is an European British subject;

Assistant Sessions Judge to have held office for three years and to be specially empowered—And if he is an Assistant Sessions Judge, unless he has held the office of Assistant Sessions Judge for at least three years, and has been specially empowered in this behalf by the Local Government.

445. *Cognizance of offence committed by European British subject.*—Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable

before a Magistrate having jurisdiction to inquire into or try the case.

446. *Sentences which may be passed by Provincial Magistrates.*—Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a District Magistrate or Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both, and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.

447. (1) *When commitment is to be to Court of Session and when to High Court.*—When an European British subject is accused of an offence before a Magistrate, and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court.

(2) When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

448. *Trial of offences of which one is, and the others are not, punishable with death or transportation for life.*—Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences.

449. (1) *Sentences which may be passed by Court of Session.*—Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both.

(2) *Procedure when Sessions Judge finds his powers inadequate.*—If, at any time after the commitment and before signing judgment, the presiding Judge thinks that the offence which appears to be proved, cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate

to bind over, the complainant and witnesses to appear before the High Court.

450. (1) *Jury or assessors before High Court or Court of Session.*—In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.

451. (1) *Right of European British subject to claim jury before District Magistrate.*—In trials of European British subjects before a District Magistrate for any offence, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 450.

(2) If a claim is made under sub-section (1) in a summons-case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant-case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

(5) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the

District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by those sub-sections, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447.

(9) *Transfer to another Court in certain cases.*—If an accused person claims to be tried by jury under this section and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 450 cannot be constituted for the trial before himself, or cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under this section, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

(10) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under this section.

452. *Trial of European British subject and Native jointly accused.*—In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately:

When Native may claim separate trial.—Provided that, if the European British subject requires under section 450 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of Chapter XXIII.

453. (1) *Procedure on claim of person to be dealt with as European British subject.*—When any person claims to be dealt with as an European British subject, he shall state the

grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

(2) When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further enquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

(3) When the Court before which any person is tried, decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

454. (1) *Failure to plead status a waiver.*—If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject and shall not assert it in any subsequent stage of the same case.

(2) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

455. *Trial under this chapter of person not an European British subject.*—Where a person who is not an European British subject is dealt with as such under this Chapter, and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid.

456. *Right of European British subject unlawfully detained to apply for order to be brought before High Court.*—When any European British subject is unlawfully detained

in custody by any person, such European British subject or any person on his behalf may apply to the High Court which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass.

457. *Procedure on such application.*—The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary.

458. *Territories throughout which High Court may issue such orders.*—The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor-General in Council may direct.

459. (1) *Application of acts conferring jurisdiction on Magistrates or Courts of Session.*—Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor-General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(2) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate or any Judge presiding in a Court of Session, not being a Justice of the Peace.

460. *Jury for trial of Europeans or Americans.*—In every case triable by jury or with the aid of assessors, in which an European (not being an European British subject) or an American is the accused person, or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable, and if such European or American so claims, be Europeans or Americans.

461. *Jury when European or American charged jointly with one of another race.*—Whenever an European or American is charged before the Court of Session jointly with a person

not an European or American and in compliance with a claim made under section 460 is tried by a jury, or with the aid of a set of assessors, or which at least one-half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately.

462. (1) *Summoning and empanelling jurors under section* 450, 451 or 460.—When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 450, or section 460, or before the Court of a District Magistrate or Sessions Judge proceeding under section 451, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

(2) The Court shall also, at the same time, in like manner, cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons has been already summoned for trials by jury at that session.

(3) From the whole number of persons returned the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained:

Provided that, in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

463. *Conduct of criminal proceedings against European British subjects, etc.*—Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans, before the Court of Session and High Court, shall except as otherwise expressly provided, be conducted according to the provisions of this Code.

CHAPTER XXXIV.

LUNATICS.

464. (1) *Procedure in case of accused being lunatic*—When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire

into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

(2) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall postpone further proceedings in the case.

465. (1) *Procedure in case of person committed before Court of Session or High Court being lunatic.*—If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court with the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

(2) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

466. (1) *Release of lunatic pending investigation or trial.*—Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

(2) *Custody of lunatic.*—If the case is one in which bail may not be taken, or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, remanding the accused to custody pending orders, and the Local Government may order the accused to be confined in a lunatic asylum, jail or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

467. (1) *Resumption of inquiry or trial.*—Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer

whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

468. (1) *Procedure on accused appearing before Magistrate or Court.*—If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

469. *When accused appears to have been insane.*—When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

470. *Judgment of acquittal on ground of lunacy.*—Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

471. (1) *Person acquitted on such ground to be kept in safe custody.*—Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the orders of the Local Government.

(2) The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

(3) *Power of Governor-General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.*—The Governor-General

in Council may, by general or special order, direct that any person whom the Local Government has ordered under this Chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined, to any lunatic asylum, jail or other place of safe custody in British India.

(4) *Power of Local Government to relieve Inspector-General of certain functions.*—The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector-General of Prisons under section 472, section 473, or section 474.

472. *Lunatic prisoners to be visited by Inspector-General.*—When any person is confined under the provisions of section 466 or section 471, the Inspector-General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylum, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report to the Local Government as to the state of mind of such person.

473. *Procedure where lunatic prisoner is reported capable of making his defence.*—If such person is confined under the provisions of section 466, and such Inspector-General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

474. (1) *Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged.*—If such person is confined under the provisions of section 466 or section 471, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a commission, consisting of a judicial and two medical officers.

(2) Such commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

475. (1) *Delivery of lunatic to care of relative.*—Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

(2) Whenever such person is so delivered it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

(3) The provisions of sections 472 and 474 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

476. (1) *Procedure in cases mentioned in section* 195.—When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195, and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate of the first class, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

(2) Such Magistrate shall thereupon proceed according to law, and as if upon complaint made and recorded under section 200, and may, if he is authorised under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate.

477. (1) *Cower of Court of Session as to such offences committed before itself.*—Subject to the provisions of section 444, a Court of Session may charge a person for any offence referred

to in section 195 and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail and try, such person upon its own charge.

(2) Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

478. (1) *Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.*—When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

(2) For the purposes of an inquiry under this section the Civil or Revenue Court may, subject to the provisions of section 443, exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, and shall be deemed to have been held by a Magistrate.

479. *Procedure of Civil or Revenue Court in such cases.*—When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorised to commit for trial; and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

480. (1) *Procedure in certain cases of contempt.*—When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender, whether he is an European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(2) Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

481. (1) *Record in such cases.*—In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(2) If the offence is under section 228 of the Indian Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

482. (1) *Procedure where Court considers that case should not be dealt with under section* 480.—If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

483. *When Registrar or Sub-Registrar to be deemed a Civil Court within sections* 480 *and* 482.—When the Local Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877, shall be deemed to be a Civil Court within the meaning of sections 480 and 482.

484. *Discharge of offender on submission or apology.*—When any Court has under section 480 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

485. *Imprisonment or committal of person refusing to answer or produce document.*—If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any

reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

486. (1) *Appeals from convictions in contempt-cases.*—Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes in a Presidency-town shall lie to the High Court, and an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the Presidency-towns, to the High Court.

487. (1) *Certain Judges and Magistrates not to try offences referred to in section* 195 *when committed before themselves.*—Except as provided in sections 477, 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court and the Recorder of Rangoon, shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

(2) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

488. (1) *Order for maintenance of wives and children.*—If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Subdivisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit and to pay the same to such person as the Magistrate from time to time directs.

(2) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

(3) *Enforcement of order.*—If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made :

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(6) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases :

Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any order so made may be set aside for good cause shewn, on application made within three months from the date thereof.

(7) The accused may tender himself as a witness, and in such case shall be examined as such.

(8) The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

(9) The accused may be proceeded against in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

489. *Alteration in allowance.*—On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit: Provided that if he increases the allowance, the monthly rate of fifty rupees in the whole be not exceeded.

490. *Enforcement of order of maintenance.*—A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A HABEAS CORPUS.

491. (1) *Power to issue directions of the nature of a habeas corpus.*—Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law;

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(*d*) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any commission from the Governor-General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(2) Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II of 1819, or Bombay Regulation XXV of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act, 1858.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

492. (1) *Power to appoint Public Prosecutors.* — The Governor-General in Council or the Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(2) In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Subdivisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of Police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

493. *Public Prosecutor may plead in all Courts in cases under his charge.*—The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal;

Pleaders, privately instructed to be under his direction.—And, if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions.

494. *Effect of withdrawal from prosecution.*—Any Public Prosecutor appointed by the Governor-General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person; and, upon such withdrawal,—

(*a*) if it is made before a charge has been framed, the accused shall be discharged;

(*b*) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted.

495. (1) *Permission to conduct prosecution.*—Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of Police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor-General in Council, but no person, other than the Advocate-General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

(2) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(3) Any person conducting the prosecution may do so personally or by a pleader.

(4) An officer of Police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.

OF BAIL.

496. *In what cases bail to be taken.*—When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a Police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail:

Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

497. (1) *When bail may be taken in case of non-bailable offence.*—When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a Police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody.

498. *Power to direct admission to bail or reduction of bail.*—The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a Police-officer or Magistrate be reduced.

499. (1) *Bond of accused and sureties.*—Before any person is released on bail or released on his own bond, a bond for such sum of money as the Police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed by the Police-officer or Court, as the case may be.

(2) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

500. (1) *Discharge from custody.*—As soon as the bond has been executed the person for whose appearance it has been executed, shall be released; and, when he is in jail, the Court

admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(2) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

501. *Power to order sufficient bail when that first taken is insufficient.*—If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it, and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

502. (1) *Discharge of sureties.*—All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

503. (1) *When attendance of witness may be dispensed with.*—Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance,

Issue of commission, and procedure thereunder—And may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(2) When the witness resides in the territories of any Prince or Chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

(4) Where the commission is issued to such officer as is mentioned in sub-section (2), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

504. (1) *Commission in case of witness being within Presidency-town.*—If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

(2) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the Slave Trade Act, 1876, section 3.

505. *Parties may examine witnesses.*—The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed, shall examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

506. *Power of Provincial Subordinate Magistrate to apply for issue of commission.*— Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or in-

convenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

507. (1) *Return of commission.*—After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872, may also be received in evidence at any subsequent stage of the case before another Court.

508. *Adjournment of inquiry or trial.*—In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XLI.

SPECIAL RULES OF EVIDENCE.

509. (1) *Deposition of medical witness.*—The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

(2) *Power to summon medical witness.*—The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

510. *Report of Chemical Examiner.*—Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

511. *Previous conviction or acquittal how proved.*—In any inquiry, trial or other proceeding under this Code, a previous

conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,—

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order; or

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

512. (1) *Record of evidence in absence of accused.*—If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(2) *Record of evidence when offender unknown.*—If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of British India.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

513. *Deposit instead of recognizance.*—When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

514. (1) *Procedure on forfeiture of bond.*—Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorise the distress and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond, but the party who gave the bond, may be required to find a new surety.

515. *Appeal from, and revision of, orders under section* 514.—All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

516. *Power to direct levy of amount due on certain recognizances.*—The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

517. (1) *Order for disposal of property regarding which offence committed.*—When an inquiry or a trial in any Criminal

Court is concluded, the Court may make such order as it thinks fit for the disposal of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

(3) When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is live-stock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

Explanation.—In this section the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

518. *Order may take form of reference to District or Subdivisional Magistrate.*—In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Subdivisional Magistrate, who shall in such cases deal with it as if it had been seized by the Police and the seizure had been reported to him in the manner hereinafter mentioned.

519. *Payment to innocent purchaser of money found on accused.*—When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

520. *Stay of order under section* 517, 518 *or* 519.—Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519,

passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

521. (1) *Destruction of libellous and other matter.*—On a conviction under the Indian Penal Code, section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may, in like manner, on a conviction under the Indian Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

522. (1) *Power to restore possession of immoveable property.*—Whenever a person is convicted of an offence attended by criminal force and it appears to the Court that by such force any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same.

(2) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

523. (1) *Procedure by Police upon seizure of property taken under section 51 or stolen.*—The seizure by any Police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

(2) *Procedure where owner of property seized unknown.*—If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

524. (1) *Procedure where no claimant appears within six months.*—If no person within such period establishes his claim to such property, and if the person in whose possession

such property was found, is unable to show that it was legally acquired by him. such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Subdivisional Magistrate, or of a Magistrate of the first class empowered by the Local Government in this behalf.

(2) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

525. *Power to sell perishable property.*—If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure is reported, is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold ; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

CHAPTER XLIV.

Of the Transfer of Criminal Cases.

526. (1) *High Court may transfer case or itself try it.*—Whenever it is made to appear to the High Court—

(*a*) that a fair and impartial enquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

(*e*) that such an order is expedient for the ends of justice, or is required by any provision of this Code,

it may order—

(*i*) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence ;

(*ii*) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction ;

(*iii*) that any particular criminal case or appeal be transferred to and tried before itself ; or

(*iv*) that an accused person be committed for trial to itself or to a Court of Session.

(2) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed, if the case had not been so withdrawn.

(3) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(4) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate-General, be supported by affidavit or affirmation.

(5) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecutor.

(6) *Notice to Public Prosecutor of application under this section.*—Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made ; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(7) Nothing in this section shall be deemed to affect any order made under section 197.

(8) *Adjournment on application under this section.*—If, in any criminal case or appeal, before the commencement of the hearing, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending, his intention to make an application under this section in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal.

527. (1) *Power of Governor-General in Council to transfer criminal cases and appeals.*—The Governor-General in Council may, by notification in the Gazette of India, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

528. (1) *District or Subdivisional Magistrate may withdraw or refer cases.*— Any Chief Presidency Magistrate, District Magistrate or Subdivisional Magistrate may withdraw any case from or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

(2) *Power to authorise District Magistrate to withdraw classes of cases.*—The Local Government may authorise the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

(3) A Magistrate making an order under this section shall record in writing his reasons for making the same.

(4) The head of a village under Madras Regulation IV of 1821, is a Magistrate for the purposes of this section.

CHAPTER XLV.

Of Irregular Proceedings.

529. *Irregularities which do not vitiate proceedings.*—If any Magistrate not empowered by law to do any of the following things, namely :—

(*a*) to issue a search-warrant under section 98 ;

(*b*) to order, under section 155, the Police to investigate an offence ;

(*c*) to hold an inquest under section 176 ;

(*d*) to issue process, under section 186, for the apprehension of a person within the local limits of *his* jurisdiction who has committed an offence outside such limits;

(*e*) to take cognizance of an offence under section 190, sub-section (1), clause (*a*), or clause (*b*) ;

(*f*) to transfer a case under section 192 ;

(*g*) to tender a pardon under section 337 or section 338 ;

(*h*) to sell property under section 524 or section 525 ; or

(*i*) to withdraw a case and try it himself under section 528 ;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

530. *Irregularities which vitiate proceedings.*—If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely :—

(*a*) attaches and sells property under section 88 ;
(*b*) issues a search-warrant for a letter, parcel or other thing in the Post-office, or a telegram in the Telegraph Department ;
(*c*) demands security to keep the peace ;
(*d*) demands security for good behaviour ;
(*e*) discharges a person lawfully bound to be of good behaviour ;
(*f*) cancels a bond to keep the peace ;
(*g*) makes an order under section 133, as to a local nuisance ;
(*h*) prohibits, under section 143, the repetition or continuance of a public nuisance ;
(*i*) issues an order under section 144 ;
(*j*) makes an order under Chapter XII ;
(*k*) takes cognizance, under section 190, sub-section (1), clause (*c*), of an offence ;
(*l*) passes a sentence, under section 349, on proceedings recorded by another Magistrate ;
(*m*) calls, under section 435, for proceedings ;
(*n*) makes an order for maintenance ;
(*o*) revises, under section 515, an order passed under section 514 ;
(*p*) tries an offender ;
(*q*) tries an offender summarily ; or
(*r*) decides an appeal ;

his proceeding shall be void.

531. *Proceedings in wrong place.*—No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division, district, subdivision or other local area, unless it appears that such error has in fact occasioned a failure of justice.

532. (1) *When irregular commitments may be validated.*—If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless, during the inquiry and before the order of commitment,

objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

(2) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

533. (1) *Non-compliance with provisions of section* 164 or 364.—If any Court before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded ; and, notwithstanding anything contained in the Indian Evidence Act, 1872, section 91, such statement shall be admitted, if the error has not injured the accused as to his defence on the merits.

(2) The provisions of this section apply to Courts of Appeal, Reference and Revision.

534. *Omission to ask question prescribed by section* 454 (2). —An omission to ask any person whether he is an European British subject, in a case to which sub-section (2) of section 454 applies, shall not affect the validity of any proceeding.

535. (1) *Effect of omission to prepare charge.*—No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

536. (1) *Trial by jury of offence triable with assessors.*—If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

(2) *Trial with assessors of offence triable by jury.*—If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

537. *Finding or sentence when reversible by reason of error or omission in charge or other proceedings.*—Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed

or altered under Chapter XXVII or on appeal or revision on account—

(*a*) of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

(*b*) of the want of or any irregularity in any sanction required by section 195, or any irregularity in proceedings taken under section 476, or

(*c*) of the omission to revise any list of jurors or assessors in accordance with section 324, or

(*d*) of any misdirection in any charge to a jury unless such error, omission, irregularity, want or misdirection has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

Illustration.

A Magistrate being required by law to sign a document signs it by initials only. This is purely an irregularity, and does not affect the validity of the proceeding.

538. *Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.*—No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto.

CHAPTER XLVI.

MISCELLANEOUS.

539. *Courts and persons before whom affidavits may be sworn.*—Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorised to take affidavits or affirmations in Scotland.

540. *Power to summon material witness, or examine person present.*—Any Court may, at any stage of any inquiry, trial

or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

541. (1) *Power to appoint place of imprisonment.*—Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

(2) *Removal to criminal jail of accused or convicted persons who are in confinement in civil jail.*—If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(3) *And their return to the civil jail.*—When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.

542. (1) *Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.*—Notwithstanding anything contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

(2) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

543. *Interpreter to be bound to interpret truthfully.*—When the services of an interpreter are required by any

Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

544. *Expenses of complainants and witnesses.*—Subject to any rules made by the Local Government with the previous sanction of the Governor-General in Council, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

545. (1) *Power of Court to pay expenses or compensation out of fine.*—Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(*a*) in defraying expenses properly incurred in the prosecution ;

(*b*) in compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the Court, recoverable by civil suit.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

546. *Payments to be taken into account in subsequent suit.*—At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

547. *Moneys ordered to be paid recoverable as fines.*—Any money (other than a fine) payable by virtue of any order made under this Code shall be recoverable as if it were a fine.

548. *Copies of proceedings.*—If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished therewith :

Provided that he pays for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

549. (1) *Delivery to military authorities of persons liable to be tried by Court-martial.*—The Governor-General in Council may make rules, consistent with this Code and the Army

Act or any similar law for the time being in force, as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies, or by Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act, section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

(2) *Apprehension of such persons.*—Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

550. *Powers to Police to seize property suspected to be stolen.*—Any Police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such Police-officer, if subordinate to the officer in charge of a Police-station, shall forthwith report the seizure to that officer.

551. *Powers of superior officers of Police.*—Police-officers superior in rank to an officer in charge of a Police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

552. *Power to compel restoration of abducted females.*—Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

553. (1) *Compensation to persons groundlessly given in charge in Presidency-town.*—Whenever any person causes a Police-officer to arrest another person in a Presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty

rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

554. (1) *Power of chartered High Courts to make rules for inspection of records of subordinate Courts.*—With the previous sanction of the Governor-General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts.

(2) *Power of other High Courts to make rules for other purposes.*—Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,—

(*a*) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(*b*) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(*c*) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and

(*d*) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(3) All rules made under this section shall be published in the local official Gazette.

555. *Forms.*—Subject to the power conferred by section 553, and by section 15 of the Indian High Courts Act, 1861, the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

556. *Case in which Judge or Magistrate is personally interested.*—No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed to be a party or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Illustration.

A, as Collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws. A is disqualified from trying this case as a Magistrate.

557. *Practising pleader not to sit as Magistrate in certain Courts.*—No pleader who practises in the Court of any Magistrate in a Presidency-town or district, shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court.

558. *Power to decide language of Courts.*—The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than the High Courts established by Royal Charter.

559. *Powers of Governor-General in Council and Local Government exerciseable from time to time.*—All powers conferred by this Code on the Governor-General in Council or on the Local Government may be exercised from time to time as occasion requires.

560. *Officers concerned in sales not to purchase or bid for property.*—A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

561. (1) *Special provisions with respect to offence of rape by a husband.*—Nothwithstanding anything in this Code, no

Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence :

(2) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a Police-officer with respect to such an offence as is referred to in sub-section (1), no Police-officer of a rank below that of Police-inspector shall be employed either to make, or to take part in, the investigation.

First Offenders.

562. *Powers to Court to release upon probation of good conduct instead of sentencing to punishment*.—In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating, or any other offence under the Indian Penal Code punishable with not more than two years' imprisonment before any Court, and no previous conviction is proved against him, if it appears to the Court before whom he is so convicted, that, regard being had to the youth, character and antecedents of the offender, to the trivial nature of the offence and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, and during such period (not exceeding one year) as the Court may direct, to appear and receive sentence when called upon, and in the meantime to keep the peace and be of good behaviour :

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Subdivisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

563. (1) *Provision in case of offender failing to observe conditions of his recognizances*.—If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the

offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(2) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

564. (1) *Conditions as to abode of offender.*—The Court, before directing the release of an offender under section 562, shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(2) Nothing in this section or in sections 562 and 563 shall affect the provisions of section 31 of the Reformatory Schools Act, 1897.

Previously Convicted Offenders.

565. (1) *Order for notifying address of previously convicted offender.*—When any person, having been convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again convicted of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Subdivisional Magistrate, or any Magistrate of the first class specially empowered by the Local Government in this behalf, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of residence after release be notified, as hereinafter provided, for a term not exceeding five years from the date of the expiration of such sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) The Local Government, with the previous sanction of the Governor-General in Council, may make rules to carry out the provisions of this section relating to the notification of residence by released convicts.

(4) Any person refusing or neglecting to comply with any rule so made shall be punishable as if he had committed an offence under section 176 of the Indian Penal Code.

SCHEDULE I.

ENACTMENTS REPEALED.

(*See section* 2.)

Number and year.	Short title or subject.	Extent of repeal.
X of 1875 ...	High Courts' Criminal Procedure.	The whole.
X of 1882 ...	The Code of Criminal Procedure, 1882.	The whole.
III of 1884 ...	The Criminal Procedure Code Amendment Act, 1884.	The whole.
X of 1886 ...	Amending the Code of Criminal Procedure, 1882, and certain other Acts.	Sections 1 to 19 (both inclusive).
V of 1887 ...	Amending the Code of Criminal Procedure, 1882.	The whole.
XIV of 1887 ...	The Indian Marine Act, 1887.	Section 78.
I of 1889 ...	The Metal Tokens Act, 1889.	Section 7.
V of 1889 ...	Abolishing the office of Coroner of Madras.	Section 4, sub-section (1).
XI of 1889 ...	The Lower Burma Courts Act, 1889.	So much of the second schedule as relates to the Code of Criminal Procedure, 1882.

SCHEDULE I.—(*Concluded.*)

Number and year.	Short title or subject.	Extent of repeal.
XIII of 1889 ...	The Cantonments Act, 1889.	So much of the schedule as relates to the Code of Criminal Procedure, 1882.
III of 1891 ...	Amending the Indian Evidence Act 1872, and the Code of Criminal Procedure, 1882.	Section 9.
IV of 1891 ...	Amending the Code of Criminal Procedure, 1882.	The whole.
X of 1891 ...	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882.	Sections 2 and 3.
XII of 1891 ...	The Repealing and Amending Act, 1891.	So much as relates to the Code of Criminal Procedure, 1882.
III of 1894 ...	Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code.	Sections 1 to 4 (both inclusive).
X of 1894 ...	Amending the Code of Criminal Procedure, 1882.	The whole.
IV of 1895 ...	Amending sections 366 and 371 of the Code of Criminal Procedure, 1882.	The whole.
XIII of 1896 ...	Amending the Code of Criminal Procedure, 1882.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

EXPLANATORY NOTE.—The entries in the second and 7th columns of this schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies also to the Police in the towns of Calcutta and Bombay.

CHAPTER V.—ABETMENT.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.

CHAPTER V.—ABETMENT.—(*Continued.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant for a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	The same punishmente as for the offence intended to be abetted.	Ditto.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence committed.	Ditto.

114	Abetment of any offence, if abettor is present when offence is committed.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
115	Abetment of an offence, punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto	...	Ditto	...	Not bailable.		Ditto	...	Imprisonment of either description for 7 years and fine.		Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 14 years and fine.		Ditto.
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto	...	Ditto	...	According as the offence abetted is bailable or not.		Ditto	...	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.		Ditto.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment extending to half of the longest term, and of any description provided for the offence, or fine, or both.		Ditto.

CHAPTER V.—ABETMENT.—(*Continued.*)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
117	Abetting the commission of an offence by the public or by more than ten persons.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	Imprisonment of either description for 3 years, or fine, or both.	The Court by which the offence abetted is triable.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ...	Ditto ...	Not bailable.	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.

119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Ditto ...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation for life.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Imprisonment of either description for ten years.	Ditto.
	If the offence be not committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Ditto ...	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	If the offence be not committed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant...	Not bailable	Not compoundable	Death, or transportation for life, and forfeiture of property.	Court of Session.
121A	Conspiring to commit certain offences against the State.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or any shorter term, or imprisonment of either description for 10 years.	Ditto.
122	Collecting arms, etc., with the intention of waging war against the Queen.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto.
	Concealing with intent to facilitate a design to wage war.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

124	Assaulting Governor-General, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Sedition ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the first class specially empowered by the Local Government in that behalf.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto ...	Ditt ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Shall not arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Imprisonment of either discription for 7 years and fine, and forfeiture of certain property.	Court of Session.
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto ...	Ditto ..	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Simple imprisonment for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

131	Abetting mutiny or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant...	Not bailable ...	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto ...	Ditto ...	Bailable ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—(*Concluded.*)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Bailable ...	Not compoundable.	Fine of 500 rupees...	Presidency Magistrate or Magistrate of the first or second class.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant...	Ditto ...	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier with intent that it may be believed that he is such a soldier.	Ditto ...	Summons	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

143	Being member of an unlawful assembly.	May arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ...	Warrant ..	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
147	Rioting	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
148	Rioting, armed with a deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto ...	The same as for the offence.	The Court by which the offence is triable.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—(*Continued.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	According as the offence is bailable or not.	Not compoundable.	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	The Court by which the offence is triable.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons.	Bailable ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto ...	Warrant...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed ...	Ditto ...	Summons..	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
153 A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant...	Not bailable	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
154	Owner or occupier of land not giving information of riot, etc.	Ditto ...	Summons..	Bailable ...	Ditto ...	Fine of 1,000 rupees	Presidency Magistrate or Magistrate of the first or second class.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine ...	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—(*Concluded.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant...	Summons	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
159	Or to go armed ...	Ditto ...	Warrant...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray ...	Shall not arrest without warrant.	Summons..	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
164.	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or buisness transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—(*Concluded.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Shall not arrest without warrant.	Summons	Bailable ...	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.

170	Personating a public servant.	May arrest without warrant.	Warrant...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ...	Summons.	Ditto ..	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, etc., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(*Continued.*)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Shall not arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, etc., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If the notice or information required respects the commission of an offence, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(*Continued*).

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	If the information required respects the commission of an offence, etc.	Shall not arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Imprisoment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
178	Refusing oath when duly required to take oath by a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.

179	Being legally bound to state truth, and refusing to answer questions.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ...	Warrant..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto ...	Summons	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(*Concluded.*)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby.	Shall not arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
186	Obstructing public servant in discharge of his public functions.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, etc.	Ditto	...	Ditto	..	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant...	Bailable ...	Not compoundable	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Death or as above.	Ditto.

195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for seven years or upwards.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	The same as for the offence.	Court of Session.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	...	Ditto	...	According as the offence of giving such evidence is bailable or not.		Ditto	..	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate, or Magistrate of the first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	The same as for giving false evidence.	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(*Continued.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
200	Using as true any such declaration known to be false.	Shall not arrest without warrant.	Warrant..	Bailable ...	Not compoundable.	The same as for giving false evidence.	Court of Session, Presidency Magistrate, or Magistrate of the first class.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto ...	itto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

	If punishable with less than 10 years' imprisonment.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto ...	Summons.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
203	Giving false information respecting an offence committed.	Ditto ...	Warrant...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Presidency Magistrate or Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(*Continued.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Shall not arrest without warrant.	Warrant	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	...	Ditto	..	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
	If offences charged be punishable with imprisonment for seven years or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with transportation for life.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Court of Session.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
	If punishable with imprisonment for 1 year and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

213	Taking gift, etc., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

1 Section.	2 Offence	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If with imprisonment for less than 10 years.	Shall not arrest without warrant.	Warrant...	Bailable ...	Not compouudable.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable
216A	Harbouring robbers or dacoits.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ...	Warrant	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Shall not arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.

	If punishable with transportation for life or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of justice if under sentence of death.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation or penal servitude for life, or transportation imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

1	2	3	4	5	6	7	8
Offence.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
223	Escape from confinement negligently suffered by a public servant.	Shall not arrest without warrant.	Summons	Bailable ...	Not compoundable.	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person or rescuing him from lawful custody.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

	If charged with a capital offence.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
	If under sentence of death.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
225A	Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for—										
	(*a*) in case of intentional omission or sufferance.	Shall not arrest without warrant.		Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	(*b*) in case of negligent omission or sufferance.	Ditto	...	Summons..		Ditto	...	Ditto	...	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
226	Unlawful return from transportation.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Court of Session.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons.	Ditto ...	Ditto ...	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ...	Bailable ..	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.

229	Personation of a juror or assessor.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant.	Not bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(*Continued.*)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	May arrest without warrant.	Warrant ..	Not bailable	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If Queen's coin ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session.
236	Abetting in British India the counterfeiting out of British India of coin.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life or imprisonment of either description for 10 years and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
240	The same with respect to the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(*Continued.*)

1	2	3	4	5	6	7	8
Section.	Offence	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Ditto	..	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	...	Ditto	..	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowlddge that it is altered.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Ditto	..	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(*Continued.*)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant...	Not bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.
255	Counterfeiting a Government stamp.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

258	Sale of counterfeit Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(*Concluded.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
263A	Fictitious stamps ...	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Fine of 200 rupees	Presidency Magistrate or Magistrate of the first class.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

267	Making or selling false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Shall not arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Fine of 500 rupees.	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.
281	Exhibition of a false light, mark or buoy.	Ditto ...	Warrant .	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	May arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees...	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, etc.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Any Magistrate.

286	So dealing with any explosive substance.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Summons.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Any Magistrate.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees.	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, &c.—(*Concluded.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
292	Sale, etc., of obscene books, etc.	May arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
293	Having in possession obscene books, etc., for sale or exhibition.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
294	Obscene songs ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
294A	Keeping a lottery office	Shall not arrest without warrant.	Summons.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees.	Ditto.

295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons.	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in place of worship or sepulture, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrat.	Ditto ...	Ditto ...	Compoundable.	Ditto ...	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
302	Murder	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Death, or transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Death ...	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.

304A	Causing death by rash or negligent act.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate of Magistrate or the first class.
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	Ditto	...	Ditto	...	Not bailable		Ditto	...	Death or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.
306	Abetting the commission of suicide.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder ...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
	If such act cause hurt to any person.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Death or as above...	Ditto.
308	Attempt to commit culpable homicide.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*Continued.*)

Of Offences affecting Life—(Concluded.)

Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
309	Attempt to commit suicide.	May arrest without warrant.	Warrant..	Bailable ...	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug ...	Ditto ...	Ditto ...	Not bailable	Ditto ...	Transportation for life and fine.	Court of Session.

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage ...	Shall not arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

	If the woman be quick with child.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto	...	Ditto	...	Not bailable.		Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.		Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*Continued.*)

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births—(Concluded.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
318	Concealment of birth by secret disposal of dead body.	May arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
			Of Hurt.				
323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons..	Bailable ...	Compoundable.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.

324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto ...	Ditto ...	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ...	Ditto ...	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto ...	Warrant...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*Continued.*)

Of Hurt—(Continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons	Bailable ...	Compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Ditto ...	Ditto ...	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*Continued.*)

Of Hurt—(Concluded.)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
337	Causing hurt by an act which endangers human life, etc.	May arrest without warrant.	Summons	Bailable ...	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of Wrongful Restraint and Wrongful Confinement.

341	Wrongfully restraining any person.	May arrest without warrant.	Summons	Bailable ...	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.

342	Wrongfully confining any person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
343	Wrongfully confining for three or more days.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditt

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*Continued.*)

Of Wrongful Restraint and Wrongful Confinement—(Concluded.)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	May arrest without warrant.	Summons	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Of Criminal Force and Assault.						
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable ...	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant...	Ditto ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto ..	Ditto ...	Ditto.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Compoundable.	Ditto ...	Ditto ...	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Ditto ...	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto ...	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Abduction Slavery and Forced Labour.

363	Kidnapping ...	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*Continued.*)

Of Kidnapping, Abduction, Slavery and Forced Labour—(Concluded.)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
364	Kidnapping or abducting in order to murder.	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

368	Concealing or keeping in confinement a kidnapped person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto ...	Bailable ...	Ditto ...	Ditto ...	Court of Session.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto ...	Not bailable.	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for purposes of prostitution, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
374	Unlawful compulsory labour.	Ditto ...	Ditto ...	Bailable ...	Compoundable ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*Concluded.*)

Of Rape.

1 Section.	2 Offence	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
376	Rape— If the sexual intercourse was by a man with his own wife.	Shall not arrest without warrant.	Summons	Bailable ...	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	In any other case ...	May arrest without warrant.	Warrant ..	Not bailable	Ditto ...	Ditto ...	Ditto.

Of Unnatural Offences.

377	Unnatural offences ...	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

379	Theft ...	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent or vessel.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Extortion.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
384	Extortion ...	Shall not arrest without warrant.	Warrant	Bailable ...	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable.	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life.	Ditto.
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence be an unnatural offence.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life.	Ditto.

Of Robbery and Dacoity.

392	Robbery ...	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Robbery and Dacoity.—(Concluded.)

Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If committed on the highway between sunset and sunrise.	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Rigorous imprisonment for 14 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
393	Attempt to commit robbery.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session.

396	Murder in dacoity ...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Death, transportation for life or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
399	Making preparation to commit dacoity.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	..	Ditto	...	Ditto	...	Ditto	...	Rigorous imprisonment for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Court of Session.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Criminal Misappropriation of Property.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
405	If by clerk or person employed by deceased.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

406	Criminal breach of trust.	May arrest without warrant.	Warrant...	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
407	Criminal breach of trust by a carrier, wharfinger, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session, Presidency Magistrate or Magtrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, &c.	Ditto ..	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of the Receiving of Stolen Property.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Of Cheating.

417	Cheating ...	Shall not arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XVII—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Fraudulent Deeds and Disposition of Property.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ..	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

Of Mischief.

426	Mischief ...	Shall not arrest without warrant.	Summons	Bailable ...	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto ...	Warrant..	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Not compoundable.	Ditto ...	Ditto.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Mischief.—(Continued.)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	May arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto ...	Ditto ..	Ditto ...	Ditto ...	Ditto ...	Ditto.

432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, &c., a land-mark fixed by public authority.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable.	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Mischief.—(Concluded.)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant for a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

447	Criminal trespass ..	May arrest without warrant.	Summons	Bailable ...	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass ...	Ditto ...	Warrant...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto ...	Ditto ...	Not bailable	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Any Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Not bailable	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Criminal Trespass.—(Continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
452	House-trespass, having made preparation for causing hurt, assault, &c.	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
453	Lurking house-trespass or house-breaking. ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Presidency Magistrate or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

	If the offence is theft	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either, description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first class.
456	Lurking house-trespass or house-breaking by night.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
	If the offence is theft	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(*Concluded.*)

Of Criminal Trespass—(Concluded.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	May arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery ...	Shall not arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Register of Births, &c., kept by a public servant.	Ditto ...	Ditto ...	Not bailable.	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—(*Continued.*)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Warrant...	Not bailable	Not compoundable	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Punishment for forgery of such document.	Same Court as that by which the forgery is triable.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session.

472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—(*Continued.*)

Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	Shall not arrest without warrant.	Warrant...	Bailable ...	Not compoundable.	Transportation for life, or imprisonment of either description for 7 years, and fine.	Court of Session.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.
477A	Falsification of accounts.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
			OF TRADE AND PROPERTY MARKS.				
482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto ...	Summons	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—(*Concld.*)

Of Trade and Property-Marks—(Concluded.)

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Shall not arrest without warrant.	Summons	Bailable ...	Not compoundable	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

490	Being bound by contract to render personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons	Bailable ...	Compoundable.	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfuliy married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant...	Not bailable	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
494	Marrying again during the lifetime of a husband or wife.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery ...	Ditto ...	Ditto ...	Bailable ...	Compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XXI.—DEFAMATION.

500	Defamation ...	Shall not arrest without warrant.	Warrant...	Bailable ...	Compoundable ...	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER XXI.—DEFAMATION—(*Concluded.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Shall not arrest without warrant.	Warrant...	Bailable ...	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant...	Bailable ...	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace.	Ditto ...	Ditto ...	Not bailable	Not Compoundable.	Ditto ...	Presidency Magistrate or Magistrate of the first class.

506	Criminal intimidation	Ditto ...	Ditto ...	Bailable ...	Compoundable.	Ditto ...	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both	Presidency Magistrate of Magistrate of the first class.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto ...	Ditto ...	Ditto ..	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant, or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation or imprisonment for 7 years, or upwards.	May arrest without warrant.	Warrant...	Not bailable.	Not compoundable.	.....	Court of Session.

If punishable with imprisonment for 3 years and upwards but less than seven.	Ditto	...	Ditto	...	Ditto ... Except in cases under the Indian Arms Act, 1878, section 19, which shall be bailable.	Ditto	...	.....	Court of Session, Presidency Magistrate or Magistrate of the first class.
If punishable with imprisonment for one year and upwards, but less than 3 years.	Shall not arrest without warrant.		Summons.		Bailable ...	Ditto	...	.....	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
If punishable with imprisonment for less than one year, or with fine only.	Ditto	...	Ditto	...	Ditto ...	Ditto	...	.....	Any Magistrate.

SCHEDULE III.

(*See section* 36.)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

I.—Ordinary Powers of a Magistrate of the Third Class.

(1) Power to arrest or direct the arrest, and to commit to custody, a person committing an offence in his presence, section 64.

(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.

(3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.

(4) Power to issue proclamations in cases judicially before him, section 87.

(5) Power to attach and sell property in cases judicially before him, section 88.

(6) Power to restore attached property, section 88.

(7) Power to require search to be made for letters and telegrams, section 95.

(8) Power to issue search-warrant, section 96.

(9) Power to endorse a search-warrant and order delivery of thing found, section 99.

(10) Power to command unlawful assembly to disperse, section 127.

(11) Power to use civil force to disperse unlawful assembly, section 128.

(12) Power to require military force to be used to disperse unlawful assembly, section 130.

(13) Power to record statements or confessions during a Police-investigation, section 164.

(14) Power to authorise detention of a person during a Police-investigation, section 167.

(15) Power to detain an offender found in Court, section 351.

(16) Power to take cognizance of offence, although committed by European British subject, and to issue process returnable before a Magistrate having jurisdiction, section 445.

(17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (2).

(18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514.

(19) Power to make order as to disposal of property, section 517.

(20) Power to sell perishable property of a suspected character, section 525.

II.—Ordinary Powers of a Magistrate of the Second Class.

(1) The ordinary powers of a Magistrate of the third class.

(2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

(3) Power to postpone issue of process, section 202.

(4) Power to order destruction of libellous and other matter, section 521.

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class.

(2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.

(3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.

(4) Power to require security to keep the peace, section 107.

(5) Power to require security for good behaviour, section 109.

(6) Power to discharge sureties, section 126.

(7) Power to make orders, etc., in possession cases, sections 145, 146 and 147.

(8) Power to commit for trial, section 206.

(9) Power to stop proceedings when no complaint, section 249.

(10) Power to make orders of maintenance, sections 488 and 489.

(11) Power to take evidence on commission, section 503.

(12) Power to recover penalty on forfeited bond, section 514.

(13) Power to make order as to first offenders, section 562.

IV.—Ordinary Powers of a Subdivisional Magistrate.

(1) The ordinary powers of a Magistrate of the first class.

(2) Power to direct warrants to landholders, section 78.

(3) Power to require security for good behaviour, section 110.

(4) Power to make orders as to local nuisances, section 133.

(5) Power to make orders prohibiting repetitions of nuisances, section 143.

(6) Power to make orders under section 144.

(7) Power to depute Subordinate Magistrate to make local inquiry, section 148.

(8) Power to order police-investigation into cognizable case, section 156.

(9) Power to receive report of Police-officer and pass order section 173.

(10) Power to hold inquests, section 174.

(11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(12) Power to entertain complaints, section 190.

(13) Power to receive Police-reports, section 190.

(14) Power to entertain cases without complaint, section 190.

(15) Power to transfer cases to a Subordinate Magistrate, section 192.

(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.

(17) Power to forward record of inferior Court to District Magistrate, section 435 (2).

(18) Power to sell property alleged or suspected to have been stolen, etc., section 524.

(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.

(20) Power to order released convicts to notify residence, section 565.

V.—Ordinary Power of a District Magistrate.

(1) The ordinary powers of a Subdivisional Magistrate.

(2) Power to require delivery of letters, telegrams, etc., section 95.

(3) Power to issue search-warrants for documents in custody of postal or telegraph authorities, section 96.

(4) Power to require security for good behaviour in case of sedition, section 108.

(5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.

(6) Power to cancel bond for keeping the peace, section 125.

(7) Power to try summarily, section 260.

(8) Power to quash convictions in certain cases, section 350.

(9) Power to hear appeals from orders requiring security for good behaviour, section 406.

(10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.

(11) Power to call for records, section 435.

(12) Power to order commitment, section 436.

(13) Power to order inquiry into complaint dismissed or case of accused discharged, section 437.

(14) Power to report case to High Court, section 438.

(15) Power to try European British subjects, section 443.

(16) Power to sentence European British subject to more than three months' imprisonment or one thousand rupees fine, or both, section 446.

(17) Power to appoint person to be public prosecutor in particular case, section 492 (2).

(18) Power to issue commission for examination of witness, sections 503, 506.

(19) Power to hear appeals from or revise orders passed under section 514, section 515.

(20) Power to compel restoration of abducted female, section 552.

SCHEDULE IV.

(*See sections* 37 *and* 38.)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	(1) Power to require security for good behaviour in case of sedition, section 108 : (2) Power to require security for good behaviour, section 110 : (3) Power to make orders as to local nuisances, section 133 : (4) Power to make orders prohibiting repetitions of nuisances, section 143 : (5) Power to make orders under section 144 : (6) Power to hold inquests, section 174: (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 : (8) Power to take cognizance of offences upon complaint, section 190 : (9) Power to take cognizance of offences upon Police-reports, section 190 : (10) Power to take cognizance of offences without complaint, section 190 : (11) Power to try summarily, section 260 : (12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407 : (13) Power to sell property alleged or suspected to have been stolen, etc., section 524 :

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	(14) Power to order released convicts to notify residence, section 565 : (15) Power to try cases under section 124A of the Indian Penal Code.
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 190 : (5) Power to take cognizance of offences upon Police-reports, section 190 : (6) Power to transfer cases, section 192.
POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	(1) Power to pass sentences of whipping, section 32 : (2) Power to make orders prohibiting repetitions of nuisances, section 143 : (3) Power to make orders under section 144 : (4) Power to hold inquests, section 174 : (5) Power to take cognizance of offences upon complaint, section 190 : (6) Power to take cognizance of offences upon Police-reports, section 190 : (7) Power to take cognizance of offences without complaint, section 190 : (8) Power to commit for trial, section 206 : (9) Power to make order as to first offenders, section 562.

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED.	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 190 : (5) Power to take cognizance of offences upon Police-reports, section 190 :
POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 190 : (5) Power to take cognizance of offences upon Police-reports, section 190. (6) Power to commit for trial, section 206.
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offence upon complaint, section 190 : (5) Power to take cognizance of offences upon Police-reports, section 190 ;

POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED.	By the Local Government.	Power to call for records, section 435.

SCHEDULE V.

(*See section* 554.)

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(*See section* 68.)

To of

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader, *as the case may be*) before the (*Magistrate*) of , on the day of

Herein fail not.

Dated this day of , 18

(*Seal.*) (*Signature.*)

II.—WARRANT OF ARREST.

(*See section* 75.)

To (*name and designation of the person or persons who is or are to execute the warrant.*)

WHEREAS of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me.

Herein fail not.

Dated this day of , 18

(*Seal.*) (*Signature.*)

(*See section* 76.)

This warrant may be endorsed as follows :—

If the said shall give bail himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of , 18 .

(*Signature.*)

III.—Bond and Bail-bond after Arrest under a Warrant.

(*See section* 86.)

I, (*name*), of , being brought before the District Magistrate of (*or, as the case may be*) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18 .

(*Signature.*)

I do hereby declare myself surety for the abovenamed of , that he shall attend before in the Court of on the day of next to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

IV.—Proclamation requiring the Appearance of a Person Accused.

(*See section* 87.)

Whereas complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said of is required to appear at (*place*) before this Court (*or* before me) to answer the said complaint within days from this date.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(*See section* 87.)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o'clock, to be examined touching , the offence complained of.

Dated this day of , 18

(*Seal.*) (*Signature.*)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(*See section* 88.)

To the Police-officer in charge of the Police-station at

WHEREAS a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant); and thereupon a proclamation was duly issued and published requiring the said to appear and give evidence at the time and place mentioned therein, and he has failed to appear;

This is to authorize and require you to attach by seizure the moveable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(*See section* 88.)

To (*name and designation of the person or persons who is or are to execute the warrant.*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (*or* town) of , in the District of , *viz.*, , and an order has been made for the attachment thereof;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(*See section* 88.)

To the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days, but he has not appeared; and whereas the said is possessed of certain land pay-

ing revenue to Government in the village (*or* town) of in the district of ;

You are hereby authorised and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of , 18

(*Seal.*) (*Signature.*)

VII.—Warrant in the First Instance to bring up a Witness.

(*See section* 90.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant.*)

Whereas complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (*name*) and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

VIII.—Warrant to Search after Information of a Particular Offence.

(*See section* 96.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

Whereas information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (*or* about to be made) into the said offence (*or* suspected offence);

This is to authorise and require you to search for the said *the thing specified*) in the (*describe the house or place, or part*

thereof, to which the search is to be confined), and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) _____ (*Signature.*)

IX.—Warrant to Search suspected Place of Deposit.

(*See section* 98.)

To (*name and designation of a Police-officer above the rank of a Constable.*)

Whereas information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or if for either of the other purposes expressed in the section, state the purpose in the words of the section*);

This is to authorise and require you to enter the said house (*or other place*) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place, or if the search is to be confined to a part, specify the part clearly*), and to seize and take possession of any property (*or* documents, *or* stamps, *or* seals, *or* coins, *as the case may be*)—[Add (*when the case requires it*) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals, *or* counterfeit coin (*as the case may be*)], and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) _____ (*Signature.*)

X.—Bond to Keep the Peace.

(*See section* 107.)

Whereas I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and, in

case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18

(*Signature.*)

XI.—BOND FOR GOOD BEHAVIOUR.

(*See sections* 108, 109 *and* 110.)

WHEREAS I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects for the term of (*state the period*), I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees

Dated this day of 18

(*Signature.*)

(*Where a bond with sureties is to be executed, add*)—We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees

Dated this day of 18

(*Signature.*)

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(*See section* 114.)

To of

WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (*or* by a duly authorised agent) at the Office of the Magistrate of on the day of 18 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [*when sureties are required, add*, and also to give security by the bond of one (*or* two, *as the case may be*) surety (*or* sureties) in the sum of rupees

(each *if more than one*)], that you will keep the peace for the term of

Given under my hand and the seal of the Court, this day of , 18

(*Seal.*) (*Signature.*)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(*See section* 123.)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name and address*) appeared before me in person (*or* by his authorised agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (*or* a bond with two sureties each in rupees), that he, the said (*name*) would keep the peace for the period of months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received, and the said (*name*) released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(*See section* 123.)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the district of having no ostensible means of subsistence (*or*, and that he is unable to give any satisfactory account of himself);

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded, from which it appears that he is an habitual robber (*or* house-breaker, etc., *as the case may be*);

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or* two or more sureties, *as the case may be*), himself for rupees , and the said surety (*or* each of the said sureties) for rupees , and the said (*name*) has failed to comply with the said order and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received and the said (*name*) released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See sections* 123 *and* 124.)

To the Superintendent (*or* Keeper) of the Jail at (*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of , and has since duly given security under section of the Code of Criminal Procedure;

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorise and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XVI.—Order for the Removal of Nuisances.

(*See section* 133.)

To (*name, description and address*).

Whereas it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, etc., (*describe the road or public place*), by, etc. (*state what it is that causes the obstruction or nusiance*), and that such obstruction (*or* nuisance) still exists;

or

Whereas it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*, and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place;

or

Whereas it has been made to appear to me that you are the owner (*or* are in possession of *or* have the control over) a certain tank (*or* well *or* excavation) adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well *or* excavation) being without a fence (*or* insecurely fenced);

or

Whereas, etc., etc. (*as the case may be*);

I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*), or to appear at in the Court of on the day of next and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*); or to appear, etc.

or

I do hereby direct and require you, etc., etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of .8

(*Seal.*) (*Signature.*)

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

(*See section* 138.)

WHEREAS on the day of , 18 , an order was issued to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me, by a petition bearing date the day of , for an order appointing a jury to try whether the said recited order is reasonable and proper; I do hereby appoint (*the names, etc., of the five or more Jurors*) to be the Jury to try and decide the said question, and do require the said jury to report their decision within days from the date of this order at my office at .

Given under my hand and the seal of the Court, this day of , 18

(*Seal.*) (*Signature.*)

XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(*See section* 140.)

To (*name, description and address*).

I HEREBY give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of requiring you (*state substantially the requisition in the order*) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY.

(*See section* 142).

To (*name, description and address*).

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the day of 18 , is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the local inquiry by the Jury.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE.

(*See section* 143.)

To (*name, description and address*).

WHEREAS it has been made to appear to me that, etc. (*state the proper recital, guided by* Form No. XVI or Form No. XXI, *as the case may be*) ;

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of , 18

(*Seal.*) (*Signature.*)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(*See section* 144.)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones

dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road ;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mentioned the class of persons*) are about to meet and proceed in a religious procession along the public street, etc. (*as the case may be*), and that such procession is likely to lead to a riot or an affray ;

or

WHEREAS, etc., etc. (*as the case may be*).

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road ;

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or, as the case recited may require*).

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, &C., IN DISPUTE.

(*See section* 145.)

IT appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*), situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true.

I do decide and declare that he is (*or* they are) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or* their) possession in the meantime.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, ETC.

(*See section* 146.)

To the Police-officer in charge of the Police-station at
[*or*, To the Collector of].

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) [*or* I am unable to satisfy myself as to which of the said parties was in possession as aforesaid];

This is to authorise and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER.

(*See section* 147.)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or* water) is claimed exclusively by (*describe the person or persons*), and it appearing to me, on due inquiry into the same, that the said land (*or* water) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons describe him or them*), and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the institution of the said inquiry (*or if the use is enjoyable only at particular seasons, say*, "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said (*the claimant or claimants of possession*) or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of , 18

(*Seal.*) (*Signature.*)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(*See section* 169.)

I (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein. I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of 18

(*Signature.*)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the above said that he shall attend at , in the Court of , on the day of next (*or* on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(*See section* 170.)

I (*name*), of (*place*), do hereby bind myself to attend at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or* to pro-

secute and give evidence) (*or* to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18

(*Signature.*)

XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(*See section* 218.)

THE Magistrate of hereby gives notice that he has committed one for trial at the next Sessions; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, &c. (*state the offence as in the charge*).

Dated this day of , 18

(*Signature.*)

XXVIII.—CHARGES.

(*See sections* 221, 222, 223.)

(I).—CHARGES WITH ONE HEAD.

(*a*) I, [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows :—

(*b*) That you, on or about the day of , at , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court].

On Penal Code, section 121.

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*) :—]

(2) That you, on or about the day of , at , with the intention of inducing the Hon'ble *A. B.*, Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code

On section 124.

and within the cognizance of the Court of Session [*or* High Court].

(3) That you, being a public servant in the Department, directly accepted from [*state the name*], for another party [*state the name*], a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 161.

(4) That you, on or about the day of , at did, [*or* omitted to do, *as the case may be*] , such conduct being contrary to the provisions of Act , section , and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 166.

(5) That you, on or about the day of , at , in the course of the trial of , before , stated in evidence that " ," which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 193.

(6) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 304.

(7) That you, on or about the day of , at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 306.

(8) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 325.

(9) That you, on or about the day of , at , robbed [*state the name*] and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 392.

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 395.

[*In cases tried by Magistrates, substitute* " within my cognizance " *for* " within the cognizance of the Court of Session," *and in* (*c*) *omit* " by the said Court"].

(II).—CHARGES WITH TWO OR MORE HEADS.

(*a*) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*] as follows :—

(*b*) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A.B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 241.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*) : —]

(2) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 302 and 304.

Secondly.—That you, on or about the day of , at , by causing the death of , committed

culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 379 and 382.

(3) *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Alternative charges on section 193.

(4) That you, on or about the day of , at , in the course of the inquiry into , before , stated in evidence that " ," and that you, on or about the day of , at , in the course of the trial of , before , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

[*In cases tried by Magistrates, substitute* " within my cognizance " *for* " within the cognizance of the Court of Session," *and in* (*c*) *omit* " by the said Court"]

(III).—CHARGE FOR THEFT AFTER PREVIOUS CONVICTION.

I, (*name and office of Magistrate, &c.*), hereby charge you (*name of accused person*) as follows:—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* { High Court / Magistrate } *as the case may be*].

And you, the said (*name of accused*) stand further charged that you, before the committing of the said offence, that is to say, on the day of , had been convicted by the (*state Court by which conviction was had*) at of an offence, punishable under Chapter XVII of the Indian Penal Code, with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, &c.

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(*See sections* 245 *and* 258.)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS on the day of , 18 (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 18 , was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (*or* sections) of the Indian Penal Code (*or* of Act), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXX.—Warrant of Imprisonment on Failure to recover Amends by Distress.

(*See section* 250.)

To the Superintendent (*or* Keeper) of the Jail at

Whereas (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (*or* vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 8

(*Seal.*) (*Signature.*)

XXXI.—Summons to Witness.

(*See sections* 68 *and* 252.)

To of

Whereas complaint has been made before me that of has (*or* is suspected to have committed the offence of (*state the offence concisely, with time and place*), and it appears to me that you are likely to give material evidence for the prosecution;

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

(*See section* 326.)

To the District Magistrate of

WHEREAS a Criminal Session is appointed to be held in the Court-house at on the day of next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(*Here enter the names of Jurors and Assessors.*)

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXIII.—SUMMONS TO ASSESSOR OR JUROR.

(*See section* 328.)

To (*name*) of (*place*).

PURSUANT to a precept directed to me by the Court of Session of requiring your attendance as an Assessor (*or* a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (*place*) at ten o'clock in the forenoon on the day of next.

Given under my hand and seal of office, this day of , 18

(*Seal.*) (*Signature.*)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(*See section* 374.)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS at the Session held before me on the day of 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of ;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this day of , 18

(*Seal.*) (*Signature.*)

XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

(*See section* 381.)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day of 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death, and whereas the order of the Court of confirming the said sentence has been received by this Court ;

This is to authorise and require you, the said Superintendent (*or* Keeper), to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

(*See sections* 381 *and* 382.)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS at a Session held on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody ; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punish-

ment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or, as the case may be*);

This is to authorise and require you, the said Superintendent (*or* Keeper) safely to keep the said (*prisoner's name*) in your custody in the said jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words "custody in the said jail" "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

XXXVII.—Warrant to levy a Fine by Distress and Sale.

(*See section* 386.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant.*)

Whereas (*name and description of the offender*) was on the day of , 18 , convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees , and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorise and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the District of ; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid *or* forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(*See section* 480.)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS at a Court holden before me on this day (*name and description of the offender*) in the presence (*or* view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or, in default, to suffer simple imprisonment for the space of (*state the number of months or days*);

This is to authorise and require you, the Superintendent (*or* Keeper) of the said jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(*See section* 485.)

To (*name and designation of officer of Court.*)

WHEREAS (*name and description*), being summoned (*or* brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*);

This is to authorise and require you to take the said (*name*) into custody, and him safely to keep in your custody for the space of days unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with

according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(*See section* 488.)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [*or* his child (*name*) who is by reason of (*state the reason*) unable to maintain herself (*or* himself)] and to have neglected (*or* refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees ; and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of : And thereupon an order was made adjudging him to undergo simple (*or* rigorous) imprisonment in the said jail for the period of ;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody in the said jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(*See section* 488.)

To (*name and designation of the Police-officer or other person to execute the warrant*).

WHEREAS an order has been duly made requiring (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful

disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of ;

This is to authorise and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of , and if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or* forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(*See sections* 496 *and* 499.)

I, (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*), charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and, should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me ; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18

(*Signature.*)

I hereby declare myself (*or* We jointly and severally declare ourselves and each of us) surety (*or* sureties) for the said (*name*) that he shall attend at the Court of on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and, in case of his making default therein, I bind myself (*or* we bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18

(*Signature.*)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See section* 500.)

To the Superintendent (*or* Keeper) of the Jail at
(*or other officer in whose custody the person is.*)

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or* sureties) duly executed a bond under section 499 of the Code of Criminal Procedure;

This is to authorise and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(*See section* 514.)

To the Police-officer in charge of the Police-station at

WHEREAS (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorise and require you to attach any moveable property of the said (*name*) that you may find within the district of , by seizure and detention, and if the said amount be not paid within three days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(*See section* 514.)

To of

WHEREAS on the day of , 18 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section* 514.)

To of .

WHEREAS on the day of , 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security-bond has become forfeited;

You are hereby required to pay the said penalty of rupees , or to show cause, within days, why it should not be paid.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(*See section* 514.)

To of .

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby

forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*);

This is to authorize and require you to attach any moveable property of the said (*name*) which you may find within the District of , by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18

(*Seal.*) (*Signature.*)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section* 514.)

To the Superintendent (*or* Keeper) of the Civil Jail at

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*), and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the Civil Jail for (*specify the period*);

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 8

(*Seal.*) (*Signature.*)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(*See section* 514.)

To (*name, description and address*).

WHEREAS on the day of , 18 , you entered into a bond not to commit, etc. (*as in the bond*),

and proof of the forfeiture of the same has been given before me and duly recorded ;

You are hereby called upon to pay the said penalty of rupees , or to show cause before me, within days, why payment of the same should not be enforced against you.

Dated this day of , 18

(*Seal.*) (*Signature.*)

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section* 514.)

To (*name and designation of Police-officer*), at the Police-station of .

WHEREAS (*name and description*) did, on the day of , 18 , enter into a bond for the sum of rupees , binding himself not to commit a breach of the peace, etc. (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded ; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum ;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the District of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same ; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section* 514.)

To the Superintendent (*or* Keeper) of the Civil Jail at

WHEREAS proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas the said (*name*)

has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper) of the said Civil Jail, to receive the (*name*) into your custody, together with this warrant and him safely to keep in the said jail for the said period of (*term of imprisonment*) ; and to return that warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

LII.—Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour.

(*See section* 514.)

To the Police-officer in charge of the Police-station at

Whereas (*name, description and address*) did, on the day of , 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of whereby the said bond has been forfeited ; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum ;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the District of , and, if the said sum be not paid within , to sell the property so attached, or so much of it, as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18

(*Seal.*) (*Signature.*)

LIII.—Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour.

(*See section* 514.)

To the Superintendent (*or* Keeper) of the Civil Jail at

Whereas (*name, description and address*) did, on the day of , 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

RAILWAY ACT.

ACT No. IX OF 1890.*

Passed by the Governor-General of India in Council.

(RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE 21ST MARCH, 1890.)

An Act to consolidate, amend and add to the law relating to Railways in India.

[As modified up to the 1st May, 1896.]

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) *Title, extent and commencement.*—This Act may be called "The Indian Railways Act, 1890."

(2) It extends to the whole of British India, inclusive of Upper Burma and (in so far as it has been or may be extended under the provisions of the Sindh-Pishin Railway Act, 1887†, of British Baluchistan, and applies also to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty without and beyond British India and those dominions; and

(3) It shall come into force on the first day of May, 1890.

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* Act IX of 1890 has been declared in force by notification under the Scheduled Districts Act, 1874, to the following Scheduled Districts, namely:—

Tarai Parganas [*Gazette of India*, 1890, Part I, p. 596]; the Districts of Hazaribagh, Lohardugga and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singbhbum [*ib.*, p. 859].

It has been applied to the Sonthal Parganas by notification under Reg. III of 1872, s. 3 [*Calcutta Gazette*, 1890, Part I, p. 767].

† Printed, Baluchistan Code, Ed. 1890, p. 49.

2. (1) *Repeal.*—On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act.

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. *Definitions.*—In this Act, unless there is something repugnant in the subject or context,—

(1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886,* or any special Act relating to tramways :

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry :

(3) "inland water" means any canal, river, lake or navigable water in British India :

(4) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(*a*) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway ;

(*b*) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway ;

(*c*) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway ; and

(*d*) all ferries, ships, boats, and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway :

(5) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway :

(6) "railway administration" or "administration," in the case of a railway administered by the Government or a Native

* Printed, General Acts, 1885-88, Ed. 1889, p. 72.

State, means the Manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company :

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway :

(8) "Inspector" means an Inspector of Railways appointed under this Act :

(9) "goods" includes inanimate things of every kind :

(10) "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks and trollies of all kinds :

(11) "traffic" includes rolling-stock of every description as well as passengers, animals and goods :

(12) "through traffic" means traffic which is carried over the railways of two or more railway administrations :

(13) "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods :

(14) "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat :

(15) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorising the person to whom it is given to travel as a passenger on a railway gratuitously :

(16) "ticket" includes a single ticket, a return ticket and a season ticket :

(17) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy : and

(18) "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.

CHAPTER II.

INSPECTION OF RAILWAYS.

4. (1) *Appointment and duties of Inspectors.*—The Governor-General in Council may appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

(2) The duties of an Inspector of Railways shall be—

(*a*) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor-General in Council as required by this Act ;

(*b*) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor-General in Council may direct ;

(*c*) to make inquiry under this Act into the cause of any accident on a railway ;

(*d*) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

5. *Powers of Inspectors.*—An Inspector shall, for the purpose of any of the duties which he is required or authorised to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code,* and, subject to the control of the Governor-General in Council, shall for that purpose have the following powers, namely :—

(*a*) to enter upon and inspect any railway or any rolling-stock used thereon ;

(*b*) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration ;

(*c*) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

6. *Facilities to be afforded to Inspectors.*—A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

7. (1) *Authority of railway administrations to execute all necessary works.*—Subject to the provisions of this Act and, in the case of immoveable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and, subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing a railway or

* For Act XLV of 1860, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force:—

(*a*) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads,* lines of railway,* ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;

(*b*) alter the course of any rivers, brooks, streams or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or water-courses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper;

(*c*) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(*d*) erect and construct such houses, warehouses, offices and other buildings and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences, as the railway administration thinks proper;

(*e*) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead; and

(*f*) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor-General in Council.

8. *Alteration of pipes, wires and drains.*—A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain:

Provided that—

(*a*) When the railway administration desires to alter the position of any such pipe, wire or drain, it shall give reasonable notice of its intention to do so, and of the time at which

* These words were added by Act IX of 1896, s. 1.

it will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is ;

(*b*) a local authority, company or person receiving notice under proviso (*a*) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compresssd air or electricity or the maintenance of the drainage, as the case may be.

9. (1) *Temporary entry upon land for repairing or preventing accident.*—The Governor-General in Council may authorise any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor-General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor-General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this subsection shall cease and determine if the Governor-General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

10. (1) *Payment of compensation for damage caused by lawful exercise of powers under section* 7, 8 *or* 9.—A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be,* with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation.*

* These words and figures were substituted for the original words and figures by Act IX of 1896, s. 2.

11. (1) *Accommodation works.*—A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely :—

(*a*) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor-General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made. and

(*b*) all necessary arches, tunnels, culverts, drains, watercourses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor-General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Act, the works specified in clauses (*a*) and (*b*) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely :—

(*a*) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made ;

(*b*) save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the Governor-General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic ;

(*c*) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The Governor-General in Council may appoint a time for the commencement of any work to be executed under

sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor-General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

12. *Power for owner, occupier or local authority to cause additional accommodation works to be made.*—If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorised by the Governor-General in Council.

13. *Fences, screens, gates and bars.*—The Governor-General in Council may require that, within a time to be specified in the requisition or within such further time as he may appoint in this behalf,—

(*a*) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;

(*b*) any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway;

(*c*) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level;

(*d*) persons be employed by a railway administration to open and shut such gates, chains or bars.

14. (1) *Over and under bridges.*—Where a railway administration has constructed a railway across a public road on the level, the Governor-General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the

circumstances of the case, may appear to the Governor-General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(2) The Governor-General in Council may require, as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor-General in Council thinks just.

15. (1) *Removal of trees dangerous to or obstructing the working of a railway.*—In either of the following cases, namely :—

(*a*) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(*b*) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final.

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

CHAPTER IV.

OPENING OF RAILWAYS.

16. (1) *Right to use locomotives.*—A railway administration may, with the previous sanction of the Governor-General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

17. (1) *Notice of intended opening of a railway.*—Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor-General in Council notice in writing of its intention.

(2) The Governor-General in Council may in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

18. *Sanction of the Government a condition precedent to the opening of a railway.*—A railway shall not be opened for the public carriage of passengers until the Governor-General in Council, or an Inspector empowered by the Governor-General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

19. (1) *Procedure in sanctioning the opening of a railway.*—The sanction of the Governor-General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor-General in Council—

(*a*) that he has made a careful inspection of the railway and rolling-stock ;

(*b*) that the moving and fixed dimensions prescribed by the Governor-General in Council have not been infringed ;

(*c*) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed by the Governor-General in Council ;

(*d*) that the railway is sufficiently supplied with rolling-stock ;

(*e*) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act ; and

(*f*) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2) If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor-General in Council, and the Governor-General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor-General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor-General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor-General in Council.

20. (1) *Application of the provisions of the three last foregoing sections to material alterations of a railway.*—The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

21. *Exceptional provision.*—When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely :—

(*a*) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works or the diversion ; and

(*b*) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

22. *Power to make rules with respect to the opening of railways.*—The Governor-General in Council may make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

23. (1) *Power to close an opened railway.*—When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor-General in Council; and the Governor-General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor-General in Council may consider necessary for the safety of the public.

(2) An order under sub-section (1) must set forth the grounds on which it is founded.

24. (1) *Re-opening of a closed railway.*—When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

(2) When the Governor-General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor-General in Council has sanctioned its use.

(3) When the Governor-General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor-General in Council.

25. (1) *Delegation of powers under this Chapter to Inspectors.*—The Governor-General in Council may, by general or special order, authorise the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor-

General in Council might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor-General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

26. (1) *Constitution of Railway Commission.*—For the purposes of this Chapter the Governor-General in Council shall, as occasion may in his opinion require, appoint a Commission, styled a Railway Commission (in this Act referred to as the Commissioners), and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor-General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882,* in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, Chapter 104,† the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma may, on the request of the Governor-General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor-General in Council, and one at least of them shall be of experience in railway business.

27. *Restriction of jurisdiction of Railway Commission to cases specially referred.*—The Commissioners shall take cognizance of such cases only as are referred to them by the Governor-General in Council.

28. *Reference of cases to Railway Commission.*—In any of the following circumstances, namely :—

(*a*) where complaint is made to the Governor-General in Council of anything done or any omission made by a railway

* For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.

† Printed in the Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 713.

administration in violation or contravention of any provision of this Chapter;

(*b*) where any difference which is under the provisions of any agreement required or authorised to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor-General in Council to have it referred to the Commissioners;

(*c*) where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises, and the parties thereto apply to the Governor-General in Council to have it referred to the Commissioners;

the Governor-General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

29. *Constitution of Railway Commission in session.*—The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

30. (1) *Powers of Railway Commission.*—In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by a High Court.

(2) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise.

(3) At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitle to practise in any High Court.

31. (1) *Appeals from orders of Railway Commission.*—An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(*a*) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(*b*) in any other case, to the High Court of which the Law Commissioner was a member.

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the

powers which it has as an Appellate Court under the Code of Civil Procedure.* and may make any order which the Commissioners could have made.

32. *Operation of orders of Railway Commission.*—Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

33. (1) *Assessors.*—The Commissioners, in the exercise of their jurisdiction under this Chapter, may, from time to time, with the general or special sanction of the Governor-General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

(2) There shall be paid to such persons such remuneration as the Governor-General in Council upon the recommendation of the Commissioners may direct.

34. *Power of the Governor-General in Council to make rule for the purposes of this Chapter.*—The Governor-General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

35. *Costs of proceedings under this Chapter.*—The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court.

36. (1) *Execution of order of Railway Commission and High Court.*—The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person, that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

* For Act XIV of 1882, see the Revised Edition, as modified up to 1st July 1888, published by the Legislative Department.

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1) or to the Government.

37. *Evidence of documents.*—A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

38. *Submission to the Governor-General in Council of special reports by Railway Commission.*—The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor-General in Council a special report on the case, and the Governor-General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

39. *Dissolution of Railway Commission.*—Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them :

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor-General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

40. *Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter.*—Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

41. *Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.*—Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.

Traffic Facilities.

42. (1) *Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.*—Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding, and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates:

Provided as follows:—

(*a*) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund;

(*b*) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring

the traffic to be forwarded whether it agrees to the rate, apportionment and route, and, if it has any objection what the grounds of the objection are ;

(*c*) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period ;

(*d*) if an objection to the rate, apportionment or route has been sent within the prescribed period, the Governor-General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision ;

(*e*) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable ;

(*f*) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective : in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case ;

(*g*) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof ;

(*h*) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route ;

(*i*) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly ;

(*j*) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor-General in Council may by general or special order prescribe.

43. (1) *Undue preference in case of unequal rates for like traffic or services.*—Whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

44. *Provision for facilities and equal treatment where ships or boats are used which are not part of a railway.*—Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway.

45. *Terminals.*—A railway administration may charge reasonable terminals.

46. (1) *Power of Railway Commission to fix terminals.*—The Governor-General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2) In deciding the question or dispute the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

47. (1) *General rules.*—Every railway company and, in the case of a railway administered by the Government, an officer, to be appointed by the Governor-General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely :—

(*a*) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled ;

(*b*) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage ;

(*c*) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods ;

(*d*) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers ;

(*e*) for regulating the conduct of the railway servants ;

(*f*) for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner ; and,

(*g*) generally, for regulating the travelling upon, and the use, working and management of, the railway.

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees, and that, in the case of a rule made under clause (*e*) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor-General in Council and been published in the *Gazette of India :*

Provided that, where the rule is in the terms of a rule which has already been published at length in the *Gazette of India*, a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the *Gazette of India* within the meaning of this sub-section.

(4) The Governor-General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with

the previous sanction of the Governor-General in Council, rescind or vary any such rule.

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879,* and appearing from the *Gazette of India* to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

48. *Disposal of differences between railways regarding conduct of joint traffic.*—Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them ; their joint traffic with safety to the public, the Governor-General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending such arrangements shall be borne by either or any of the administrations respectively.

49. *Agreements with the Governor-General in Council for construction or lease of rolling-stock.*—Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41,† provides, may from time to time make and carry into effect agreements with the Governor-General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

50. *Powers of railway companies to enter into working agreements.*—Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41,† provides, may from time to time make with the Governor-General in Council, and carry into effect, or, with the sanction of the

* Act IV of 1879 is repealed by s 2 of this Act.

† Printed in the Collection of Statutes relating to India, Vol. II, p. 1154.

Governor-General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely :—

(*a*) the working, use, management and maintenance of any railway ;

(*b*) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (*a*) and of officers and servants for the conduct of the traffic of the railway ;

(*c*) the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance ;

(*d*) the interchange, accommodation and conveyance of traffic being on, coming from or intended for the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic ;

(*e*) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on :

Provided that the agreement shall not affect any of the rates which the railway administrations parties thereto are, from time to time, respectively authorized to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

51. *Establishment of ferries and roadways for accommodation of traffic.*—Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41,* provides, may from time to time exercise with the sanction of the Governor-General in Council all or any of the following powers, namely :—

(*a*) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry ;

(*b*) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section ;

(*c*) it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic ;

* Printed in the Collection of Statutes relating to India, Vol. II, p. 1154.

(*d*) it may construct and maintain roads for the accommodation of traffic passing to or from its railway ;

(*e*) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway ;

(*f*) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor-General in Council.

52. *Returns.*—Every railway administration shall, in forms to be prescribed by the Governor-General in Council, prepare, half-yearly or at such intervals as the Governor-General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor-General in Council may require, and shall forward a copy of such returns to the Governor-General in Council at such times as he may direct.

Carriage of Property.

53. (1) *Maximum load for wagons.*—Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor-General in Council for the class of axle under the wagon or truck.

54. (1) *Power for railway administrations to impose conditions for working traffic.*—Subject to the control of the Governor-General in Council, a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.

55. (1) *Lien for rates, terminals and other charges.*—If a person fails to pay on demand made by or on behalf of a railway administration any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, or, where there are no such newspapers, in such manner as the Governor-General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

56. (1) *Disposal of unclaimed things on a railway.*—When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him, requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the

requisition in the notice, the railway administration may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

57. *Power for railway administrations to require indemnity on delivery of goods in certain cases.*—Where any animals, goods or sale-proceeds in the position of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals, or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods or sale-proceeds.

58. (1) *Requisitions for written accounts of description of goods.*—The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (*a*) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (*b*) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any

goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

59. (1) *Dangerous or offensive goods.*—No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage and, when such goods have been so received without such notice as is mentioned in* sub-section (2)* having to his knowledge been given may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884,† or any rule under that

* This reference was substituted for the original reference by Act IX of 1896, s. 3.

† For Act IV of 1884 see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or Police-officer or a person enrolled as a volunteer under the Indian Volunteers Act, 1869,* may take with him upon a railway in the course of his employment or duty as such.

60. *Exhibition to the public of authority for quoted rates.*—At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the rate is authorized by the administration or administrations concerned.

61. (1) *Requisitions on railway administrations for details of gross charges.*—Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely :—

(*a*) the carriage of the goods on the railway ;
(*b*) terminals ;
(*c*) demurrage ; and
(*d*) collection, delivery and other expenses ;

but without particularizing the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

Carriage of Passengers.

62. *Communication between passengers and railway servants in charge of trains.*—The Governor-General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the

* For Act XX of 1869, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

passengers and the railway servants in charge of the train as the Governor-General in Council has approved.

63. *Maximum number of passengers for each compartment.*—Every railway administration shall fix, subject to the approval of the Governor-General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in ono ot more of such vernacular languages, as the Governor-General in Council, after consultation with the railway administration, may determine.

64. (1) *Reservation of compartments for females.*—On and after the first day of January, 1891, every railway administration shall, in every train carrying passengers, reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with closet.

65. *Exhibition of time-tables and tables of fares at stations.*—Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

66. (1) *Supply of tickets on payment of fares.*—Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

(*a*) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(*b*) if the class of carriage to be so specified is any other than the lowest class, then in English.

67. (1) *Provision for case in which tickets have been issued for trains not having room available for additional passengers.*—Fares shall be deemed to be accepted, and tickets to be

issued, subject to the condition of there being room available in the train for which the tickets are issued.

(2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within three hours after the departure of the train be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

68. *Prohibition against travelling without pass or ticket.*—No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

69. *Exhibition and surrender of passes and tickets.*—Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

70. *Return and season tickets.*—A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

71. (1) *Power to refuse to carry persons suffering from infectious or contagious disorder.*—A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (*d*), a person suffering from any infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(3) A railway servant giving such permission as is mentioned in sub-section (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

72. (1) *Measure of the general responsibility of a railway administration as a carrier of animals and goods.*—The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.*

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

(*a*) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(*b*) is otherwise in a form approved by the Governor-General in Council.

(3) Nothing in the common law of England or in the Carriers Act, 1865,† regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

73. (1) *Further provision with respect to the liability of a railway administration as a carrier of animals.*—The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of mules,‡ camels or horned cattle, fifty rupees a head or, in the case of donkeys,‡ sheep, goats, dogs and other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared, or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

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* For Act IX of 1872, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

† Printed, General Acts, 1834-66, Ed. 1887, p. 419.

‡ The words "mules" and "donkeys" were added by Act IX of 1896, s. 4.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

74. *Further provision with respect to the liability of a railway administration as a carrier of luggage.*—A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

75. (1) *Further provision with respect to the liability of a railway administration as a carrier of articles of special value.*— When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorized in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

76. *Burden of proof in suits in respect of loss of animals or goods.*—In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

77. *Notification of claims to refunds of overcharges and to compensation for losses.*—A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

78. *Exoneration from responsibility in case of goods falsely described.*—Notwithstanding anything in the foregoing provisions of this chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

79. *Settlement of compensation for injuries to officers, soldiers and followers on duty.*—Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that, if he were not an officer, soldier or follower being or travelling as such on duty upon the railway, compensation would be payable under Act No. XIII of 1855 * or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

80. *Suits for compensation for injury to through-booked traffic.*—Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained

* Printed, General Acts, 1834-66, Ed. 1887, p. 95.

his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred.

81. [*Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.*] *Repealed by Act IX of* 1896, *section* 5.

82. (1) *Limitation of liability of railway administration in respect of accidents at sea.*—When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854,* and the Merchant Shipping Act, Amendment Act, 1862,† if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

83. *Report of railway accidents.*—When any of the following accidents occurs in the course of working a railway, namely :—

(*a*) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code,‡ or with serious injury to property ;

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* The Statute 17 and 18 Vict., c. 104, was repealed by Statute 57 and 58 Vict., c. 60, s. 745.

† The Statute 25 and 26 Vict., c. 63, was repealed by Statute 57 and 58 Vict., c. 60, s. 745.

‡ For Act XLV of 1860, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

(*b*) any collision between trains of which one is a train carrying passengers ;

(*c*) the derailment of any train carrying passengers or of any part of such a train ;

(*d*) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property ;

(*e*) any accident of any other description which the Governor-General in Council may notify in this behalf in the *Gazette of India* ;

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway ; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the Police-station within the local limits of which it occurred, or to such other Magistrate and Police-officer as the Governor-General in Council appoints in this behalf.

84. *Power to make rules regarding notices of, and inquiries into, accidents.*—The Governor-General in Council may make rules, consistent with this Act and any other enactment for the time being in force for all or any of the following purposes, namely :—

(*a*) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain ;

(*b*) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred ;

(*c*) for prescribing the duties of railway servants, Police-officers, Inspectors and Magistrates on the occurrence of an accident.

85. *Submission of return of accidents.*—Every railway administration shall send to the Governor-General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor-General in Council directs.

86. *Provision for compulsory medical examination of person injured in railway accident.*—Whenever any person injured

by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

87. *Penalty for default in compliance with requisition under section* 13.—If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

88. *Penalty for contravention of section* 16, 18, 19, 20, 21 *or* 24.—If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

89. *Penalty for not having certain documents kept or exhibited at stations under section* 47, 54 *or* 65.—If a railway company fails to comply with the provisions of section 47, sub-section (6), section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

90. *Penalty for not making rules as required by section* 47.—If the railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

91. *Penalty for failure to comply with decision under section* 48.—If a railway company refuses or neglects to comply with any decision of the Governor-General in Council under

section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

92. *Penalty for delay in submitting returns under section 52 or 85.*—If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

93. *Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolliny-stock.*—If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number in or on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

94. *Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants.*—If a railway company fails to comply with any requisition of the Governor-General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it, which carries passengers, of such efficient means of communication as the Governor-General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

95. *Penalty for failure to reserve compartments for females under section 64.*—If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs.

96. *Penalty for omitting to give the notices of accidents required by section 83 and under section 84.*—If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

97. (1) *Recovery of penalties.*—When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) The suit must be instituted with the previous sanction of the Governor-General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor-General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

98. *Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.*—Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants.

99. *Breach of duty imposed by section* 60.—If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

100. *Drunkenness.*—If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.

101. *Endangering the safety of persons.*—If a railway servant, when on duty, endangers the safety of any person—

(*a*) by disobeying any general rule made, sanctioned, published and notified under this Act, or

(*b*) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(*c*) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

102. *Compelling passengers to enter carriages already full.*—If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

103. *Omission to give notice of accident.*—If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

104. *Obstructing level-crossings.*—If a railway servant unnecessarily—

(*a*) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(*b*) keeps a level-crossing closed against the public,

he shall be punished with fine which may extend to twenty rupees.

105. *False returns.*—If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other Offences.

106. *Giving false account of goods.*—If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

107. *Unlawfully bringing dangerous or offensive goods upon a railway.*—If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

108. *Needlessly interfering with means of communication in a train.*—If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by

a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

109. (1) *Entering compartment reserved or already full or resisting entry into a compartment not full.*—If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

110. (1) *Smoking.*—If a person, without the consent of his fellow-passengers, if any, in the same compartment smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

111. *Defacing public notices.*—If a person, without authority in this behalf, pulls down or wilfully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

112. *Fraudulently travelling or attempting to travel without proper pass or ticket.*—If a person, with intent to defraud a railway administration,—

(*a*) enters in contravention of section 68 any carriage on a railway, or

(*b*) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have travelled.

113. (1) *Travelling without pass or ticket or with insufficient pass or ticket or beyond authorized distance.*—If a passenger travels in a train without having a proper pass or a proper ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The excess charge referred to in sub-section (1) and sub-section (2) shall,—

(*a*) where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas, and

(*b*) in any other case, be six rupees, one rupee or three rupees, according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind :

Provided that such excess charge shall in no case exceed,—

(*a*) where the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or

(*b*) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

114. *Transferring any half of return ticket.*—If a person sells or attempts to sell, or parts or attempts to part with the possession of [any half]* of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for [the journey]* authorised by the ticket.

115. *Disposal of fines under the two last foregoing sections.*—That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

116. *Altering or defacing pass or ticket.*—If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

117. (1) *Being or suffering person to travel on railway with infectious or contagious disorder.*—If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

* These words were substituted for the original words by Act IX of 1896, s. 6.

(2) If any such railway servant as is referred to in section 71, sub-section (2) knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees.

118. (1) *Entering carriage in motion, or otherwise improperly travelling on a railway.*—If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

119. *Entering carriage or other place reserved for females.*—If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

120. *Drunkenness or nuisance on a railway.*—If a person in any railway carriage or upon any part of a railway—

(*a*) is in a state of intoxication, or

(*b*) commits any nuisance or act of indecency, or uses obscene or abusive language, or

(*c*) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

121. *Obstructing railway servant in his duty.*—If a person wilfully obstructs or impedes any railway servant in the dis-

charge of his duty, he shall be punished with fine which may extend to one hundred rupees.

122. (1) *Trespass and refusal to desist from trespass.*—If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

123. *Disobedience of omnibus drivers to directions of railway servants.*—If a driver or conductor of a tramcar, omnibus carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or Police-officer, he shall be punished with fine which may extend to twenty rupees.

124. *Opening or not properly shutting gates.*—In either of the following cases, namely :—

(*a*) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle or other thing across the railway,

(*b*) if, in the absence of a gate-keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

125. (1) *Cattle-trespass.*—The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.*

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head

* For Act I of 1871, see the Revised Edition, as modified up to 1st March, 1891, published by the Legislative Department.

of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.*

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.*

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871,* shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word "cattle" has the same meaning in this section as in the Cattle-trespass Act, 1871.*

126. *Maliciously wrecking or attempting to wreck a train.*—If a person unlawfully—

(*a*) puts or throws upon or across any railway any wood, stone or other matter or thing, or

(*b*) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or,

(*c*) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or

(*d*) makes or shows, or hides or removes, any signal or light upon or near to any railway, or

(*e*) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

127. *Maliciously hurting or attempting to hurt persons travelling by railway.*—If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

128. *Endangering safety of persons travelling by railway by wilful act or omission.*—If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or at-

* For Act I of 1871, see the Revised Edition, as modified up to 1st March, 1891, published by the Legislative Department.

tempts to obstruct any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

129. *Endangering safety of persons travelling by railway by rash or negligent act or omission.*—If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

130. (1) *Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.*—If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code,* to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

Procedure.

131. (1) *Arrest for offences against certain sections.*—If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128 or 129 or in section 130, sub-section (1), he may be arrested without warrant or other written authority by any railway servant or Police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or commit him for trial.

132. (1) *Arrest of persons likely to abscond or unknown.*—If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or fails or

* For Act XLV of 1860, see the Revised Edition, as modified up to May 1896, published by the Legislative Department.

refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or Police-officer, or any other person whom such railway servant or Police-officer may call to his aid, may, wihout warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX and XLII of the Code of Criminal Procedure, 1882,* shall, so far as may be, apply to bail given and bonds executed under this section.

133. *Magistrates having jurisdiction under Act.*—No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

134. (1) *Place of trial.* — Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

135. *Taxation of railways by local authorities.*—Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the

* For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.

following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely :—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor-General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.

(2) While a notification of the Governor-General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor-General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor-General in Council may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887,* and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

136. (1) *Restriction on execution against railway property.* —None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court [or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution]† without the previous sanction of the Governor-General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

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* Printed, General Acts, 1885-88, Ed. 1889, p. 116.

† These words were added by Act IX of 1896, s. 7.

137. (1) *Railway servants to be public servants for the purposes of Chapter IX of the Indian Penal Code.*—Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.*

(2) In the definition of "legal remuneration" in section 161 of that Code* the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or,

(*b*) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code,* a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

138. *Procedure for summary delivery to railway administration of property detained by a railway servant.*—If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration, in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application made by or on behalf of the railway administration, order any Police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

139. *Mode of signifying communications from the Governor-General in Council.*—Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor-General in Council, for any of the purposes of, or in relation

* For Act XLV of 1860, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant authorised to act on behalf of the Governor-General in Council in respect of the matters to which the same may relate, and the Governor-General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

140. *Service of notices on railway administrations.*—Any notice or other document required or authorised by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(*a*) by delivering the notice or other document to the Manager or Agent, or

(*b*) by leaving it at his office, or

(*c*) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the Indian Post Office Act, 1866.*

141. *Service of notices by railway administrations.*—Any notice or other document required or authorised by this Act to be served on any person by a railway administration may be served—

(*a*) by delivering it to the person, or

(*b*) by leaving it at the usual or last known place of abode of the person, or

(*c*) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the Indian Post Office Act, 1866.*

142. *Presumption where notice is served by post.*—Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

143. (1) *Provisions with respect to rules.*—A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or

* Printed, General Acts, 1834-66, Ed. 1887, p. 550.

under section 47, sub-section (4), shall not take effect until it has been published in the *Gazette of India*.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the *Gazette of India*, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor-General in Council, by general or special order, directs.

(3) The Governor-General in Council may cancel or vary any rule made by him under this Act.

144. (1) *Delegation of powers of Governor-General in Council.*—The Governor-General in Council may, by notification in the *Gazette of India*, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor-General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

(2) The provisions of section 139 with respect to proceedings of the Governor-General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor-General in Council in pursuance of a notification under sub-section (1).

145. (1) *Representation of Managers and Agents of Railways in Courts.*—The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorise any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

(2) A person authorised by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1882* be entitled to conduct, such prosecutions without the permission of the Magistrate.

146. *Power to extend Act to steam-tramways.* — The Governor-General in Council may, by notification in the *Gazette of India*, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

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* For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.

147. *Power to exempt railways from Act.*—The Governor-General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.

148. (1) *Matters supplemental to the definitions of "railway" and "railway servant."*—For the purposes of section 3, clauses (5), (6) and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, 144, 145 and 147, the word "railway," whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (4).

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, sub-sections (1), (2) and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

149. *Amendment of the Indian Penal Code.*—In sections 194 and 195 of the Indian Penal Code* for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted.

150. *Amendment of the Sindh-Pishin Railway Act*, 1887.—For that portion of the preamble to the Sindh-Pishin Railway Act, 1887,† which begins with the words "so far as it applies" and ends with the words "in its entirety," the words "should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh" shall be substituted.

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* For Act XLV of 1860, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

† Printed, Baluchistan Code, Ed. 1890, p. 49.

THE FIRST SCHEDULE.

[ENACTMENTS REPEALED.]

(*See section* 2.)

Number and year.	Title.	Extent of repeal.
	Acts of the Governor-General in Council.	
* III of 1865...	Carriers Act, 1855 ...	Section 7 (so far as it relates to railways) and section 10.
IV of 1879 ...	Indian Railway Act, 1879...	The whole.
IV of 1883 ...	Indian Railway Act, 1883...	The whole.
† XI of 1886...	Indian Tramways Act, 1886	Section 49.
‡ XX of 1886...	Upper Burma Laws Act, 1886.	So much as relates to Acts IV of 1879 and IV of 1883.
	Act of the Lieutenant-Governor of Bengal in Council.	
§ II of 1882...	Bengal Embankment Act, 1882.	Section 16, and in section 17 the proviso to the first paragraph of that section, the words "or under the section last preceding" and the words "or railroad" wherever they occur.

* Printed, General Acts, 1834-66, Ed. 1887, p. 419.
† Printed, General Acts, 1885-88, Ed. 1889, p. 72.
‡ Printed, Burma Code, Ed. 1889, p. 363.
§ Printed, Bengal Code, Vol. II, Ed. 1890, p. 609.

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(*See section* 75.)

(*a*) gold and silver, coined or uncoined, manufactured or unmanufactured;

(*b*) plated articles;

(*c*) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, Police-officer or person enrolled as a volunteer under the Indian Volunteers Act, 1869,* or of any public officer, British or foreign, entitled to wear uniform;

(*d*) pearls, precious stones, jewellery and trinkets;

(*e*) watches, clocks and timepieces of any description;

(*f*) Government securities;

(*g*) Government stamps;

(*h*) bills of exchange, hundis, promissory-notes, bank-notes and orders or other securities for payment of money;

(*i*) maps, writings and title-deeds;

(*j*) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;

(*k*) art pottery and all articles made of glass, China or marble;

(*l*) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;

(*m*) shawls;

(*n*) lace and furs;

(*o*) opium;

(*p*) ivory, ebony, coral and sandalwood;

(*q*) musk, sandalwood-oil and other essential oils used in the preparation of *itr* or other perfume;

(*r*) musical and scientific instruments;

(*s*) any article of special value which the Governor-General in Council may, by notification in the *Gazette of India*, add to this schedule.

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* For Act XX of 1869, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

PRISONERS' ACT.

ACT No. V OF 1871.

Passed by the Governor-General of India in Council.

(RECEIVED THE GOVERNOR-GENERAL'S ASSENT ON THE 27TH JANUARY, 1871.)

An Act to consolidate the laws relating to Prisoners confined by order of a Court.

[As modified up to the 1st May 1894.]

Preamble.—For the purpose of consolidating the laws relating to prisoners confined by order of a Court; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. *Short title.*—This Act may be called "The Prisoners' Act, 1871:"

Local extent.—It extends to the whole of British India.*

[*Commencement.*] *Repealed by Act XVI of* 1874.

†Any reference in Part III or Part V of this Act to a prison or jail, or to imprisonment or confinement, may be read as referring to a reformatory or reformatory school or to confinement therein.

2. [*Repeal of Acts.*] *Repealed by Act XII of* 1873.

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* Act V of 1871 has been declared in force in Upper Burma generally (except the Shan States), by Act XX of 1886, s. 6 [Burma Code, Ed. 1889], in the Arakan Hill District (except ss. 2-15), by Reg. IX of 1874, s. 3 [Burma Code, Ed. 1889], in the Sonthal Parganas, by Reg. III of 1872, s. 3, as amended by Reg. III of 1886 [Bengal Code, Vol. I, Ed. 1889], in British Baluchistan, by Reg. I of 1890, s. 3 [Baluchistan Code, Ed. 1890], and in Angul and the Khondmals, by Reg. I of 1894, s. 3.

It has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the following Scheduled Districts, namely:—the Districts of Hazaribagh, Lohardaga and Manbhum, and Pargana Dalbhum and the Kolhan in the District of Singhbhum [*Gazette of India*, 1881, Pt. I, p. 504]; and it has been extended, by notification under the same Act, to the North-Western Provinces, Tarai [*Gazette of India*, 1876, Pt. I, p. 505].

† This paragraph was added by Act VII of 1894, s. 1.

II.—PRISONERS IN THE PRESIDENCY-TOWNS.

3. *Warrants and writs to be directed to Police-officers.*—All writs or warrants for the arrest or apprehension of any person, issued or awarded by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by any officer of police within the local limits of such jurisdiction.

4. *Power to appoint Superintendents of Presidency prisons.*—The Local Government may appoint officers who shall have authority to receive and keep prisoners committed to their custody under the provisions of this Part.

All such officers appointed under any Act hereby repealed shall be deemed to be appointed under this Act.

Such officers shall be called, in Calcutta, the Superintendent of the Presidency Prison, in Madras, the Superintendent of Prisons for the town of Madras, and in Bombay, by such title or respective titles as the Local Government from time to time directs.

Every such officer is hereinafter referred to as "the Superintendent."

5. *Superintendents to detain persons committed.*—The Superintendent is hereby authorized and required to keep and detain all persons duly committed to his custody pursuant to the provisions of this Act, or otherwise, by any Court, Judge, Justice of the Peace, Magistrate of Police, Coroner or other public officer lawfully exercising civil or criminal jurisdiction according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged by due course of law.

6. *Superintendents to return writs, etc., after execution or discharge.*—The Superintendent shall forthwith after the execution of every such writ, order, or warrant, except warrants of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court or other officer by which or by whom the same has been issued or made, together with a certificate endorsed thereon and signed by the Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

7. *Delivery of persons sentenced to imprisonment or death.*—Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed

by the Superintendent and returned by him to the High Court when executed.

8. *Delivery for intermediate custody of persons sentenced to transportation or penal servitude.*—Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the imprisonment of such person shall have effect from such delivery.

9. [*Order under Mutiny Act for intermediate custody.*] *Repealed by Act VII of* 1894, *s.* 2.

10. *Committals by High Court in execution of a decree or for contempt.*—Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause he shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the Superintendent, together with a warrant of commitment.

11. *Delivery of persons sentenced by Police Magistrate.*—Whenever any person is sentenced by a Magistrate of Police* for the town of Calcutta, Madras or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with a warrant of the Court.

12. *Delivery of persons committed by Justice or Magistrate or Coroner for trial by High Court.*—Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing him to have the body of such person before the Court for trial, and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a criminal session of the said Court, together with the warrant of commitment, in order that he may be dealt with according to law.

13. *Custody, pending enquiries under section* 350 *of the Code of Civil Procedure.*—Pending any such enquiry as is

* *Now read* Presidency Magistrate—see Act X of 1882, s. 3. (For Act X of 1882 see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.)

mentioned in * section 350 of the Code of Civil Procedure * which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the Superintendent, subject to† the provisions as to release on security contained in section 349 of the same Code,†

and the Superintendent is hereby authorised and required to detain such defendant in safe custody until he is re-delivered to the officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he is released by due course of law.

14. *Delivery of persons arrested in pursuance of warrant of High Court or Small Cause Court.*—Every person arrested in pursuance of a writ, warrant or order of the High Court, in the exercise of its original civil jurisdiction,

‡or in pursuance of a warrant of any Civil Court established in Calcutta, Madras or Bombay under any law for the time being in force,‡

or in pursuance of a warrant issued under section 3 of this Act,

shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court, or a Judge thereof is then sitting for the exercise of original jurisdiction ;

and if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court, otherwise orders, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court. or a Judge thereof, at the next sitting of the said Court or of a Judge thereof, for the exercise of original jurisdiction, in order that such person may be dealt with according to law ;

and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

15. *Warrants under Regulations for confinement of State prisoners.*—Any warrant of commitment under Regulation III of 1818§ of the Bengal Code (*for the Confinement of State*

* This reference was substituted for the original reference by Act XII of 1891. For Act XIV of 1882, see the Revised Edition, as modified up to 1st July, 1888, published by the Legislative Department.

† These words, etc., were substituted for the original words by Act XII of 1891.

‡ These words were substituted for the original words by Act VII of 1894, s. 3.

§ Printed in Bengal Code, Vol. I, Ed. 1889.

Prisoners), Regulation II of 1819* of the Madras Code (*for the Confinement of State Prisoners*), and Regulation XXV of 1827† of the Bombay Code (*for the Confinement of State Prisoners, and for the Attachment of the Lands of Chieftains and others for Reasons of State*), may be directed to the Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV of 1850‡ (*for the better Custody of State Prisoners*), and Act No. III of 1858‡ (*to amend the Law relating to the arrest and detention of State Prisoners*).

III.—Prisoners in the Mufassal.

16. *Officers in charge of prisons may give effect to sentences of certain Courts.*—Officers in charge of prisons situate outside the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay shall be competent to give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal§ acting, whether within or without British India, under the general or special authority§ of Her Majesty or of the Governor-General in Council, or of any Local Government,‖ or, with the previous sanction of the Governor-General in Council in each case to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal of any Native Prince or State under the suzerainty of Her Majesty.

Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been judicially considered on the merits and confirmed by any such officer specially authorised by name or by office in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentance, order or warrant of a Court or tribunal acting under the authority of the Governor-General in Council.‖

17. *Warrant of officer of such Court to be sufficient authority.*—A warrant under the official signature of an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for

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* Printed in Madras Code, Ed. 1888.
† Printed in Bombay Code, Ed. 1880.
‡ Printed in General Acts, 1834-66, Ed. 1887.
§ These words were substituted for the original words by Act VII of 1894, s. 4 (1).
‖ This portion was added by Act VII of 1894, s. 4 (2).

transportation beyond sea, in pursuance of the sentence passed upon him.

18. *Procedure where jailor doubts the legality of warrant sent to him for execution.*—Any officer in charge of a prison doubting the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

19. *Imprisonment in British India of persons convicted of certain offences in Native States.*—* The Governor-General in Council or the Local Government may authorise the reception, detention or imprisonment in any place in British India, or in any place under such Government, as the case may be, for the period specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State under the suzerainty of Her Majesty to imprisonment or transportation for any of the following offences* :—

counterfeiting coin,
uttering counterfeit coin,
murder,
culpable homicide not amounting to murder,
being a thug,
voluntarily causing grievous hurt,
administering poison,
kidnapping,
selling minors for purposes of prostitution,
rape,
robbery,
dacoity,
dacoity with murder,
robbery or dacoity with attempt to cause death or grievous hurt,
attempt to commit robbery or dacoity when armed with a deadly weapon,
making preparation to commit dacoity,
belonging to a gang of dacoits,
dishonest misappropriation of property,

* These words were substituted for the original words by Act VII of 1894, s. 5 (1).

breach of trust,
house-burning,
house-breaking,
forgery, and
theft of cattle ;

or for any other act (referred to in this section as an offence) which would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code† mentioned in the schedule to the Foreign Jurisdiction and Extradition Act‡ 1879,

or for an attempt to commit any of the above offences,

or for abetment, within the meaning of the Indian Penal Code, of suicide by burning or burying alive, or of any of the other offences above specified,

or for such other offences as the Governor-General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe :

§ *Proviso.*—Provided that such sentences have been pronounced after trial before a tribunal of which the presiding Judge, or, if the Court consisted of more than one Judge, at least one of such Judges, was an officer of the British Government authorised to act as such Judge by the Native Prince or State or by the Governor-General in Council.

20. *Certificate of conviction.*—Every officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction ;

Copy of proceedings.—And a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

IV.—Convicts sentenced to Penal Servitude.

21. *Persons sentenced to penal servitude where sent, and how dealt with.*—Every person sentenced to be kept in penal servitude may, during the term of the sentence, be confined in such prison within British India as the Governor-General in Council by general order, from time to time, directs ;

and may, during such time, be kept to hard labour ;

Intermediate imprisonment.—And may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as

* This portion was inserted by Act VII of 1894, s. 5 (2).

† For Act XLV of 1860, see the Revised Edition, as modified up to 1st August, 1890, published by the Legislative Department.

‡ Printed in General Acts, 1877-81, Ed. 1884.

§ This proviso was substituted for the original proviso by Act VII of 1894, s. 5 (3).

persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with.

Time of intermediate imprisonment to count in discharge of sentence.—The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

22. *Law respecting convicts sentenced to transportation or imprisonment with hard labour applied to persons sentenced to penal servitude.*—All Acts and Regulations now in force within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

23. *Power to grant license to convict sentenced to penal servitude.*—The Governor-General in Council may grant to any convict sentenced to be kept in penal servitude a license to be at large within British India or in such part thereof as in such license is expressed, during such portion of his term of servitude and upon such conditions as to the Governor-General in Council seem fit.

The Governor-General in Council may at any time revoke or alter such license.

24. *Holder of license to be allowed to go at large.*—So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

25. *Apprehension of convict where license revoked.*—In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

26. *Execution of warrant.*—Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace or Magistrate or other authority having jurisdiction in the place where the same is executed.

27. *Apprehended convict to be brought up for recommitment.*—The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or before some other Justice or Magistrate of the same place or before a Justice or Magistrate having jurisdiction in the district in which the convict is apprehended.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the recommitment of the convict to the prison from which he was released by virtue of the said license.

28. *Re-commitment.*—Such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

29. *Penalty for breach of condition of the license.*—If a license be granted under section 23 upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

or goes beyond the limits specified in the license,

or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended,

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

V.—Removal of Prisoners.

* 30. *Removal from one jail to another in territories under same Local Government.*—When any person is, or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882,† the Local Government or (subject to its orders and under its control) the Inspector-General of Prisons may order his removal during the period for which he has been sentenced to imprisonment or transportation or the

* This section was, by Act VII of 1894, s. 6, substituted for the s. 30 enacted by Act X of 1886, s. 25.

† For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.

security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of confinement within the territories subject to the same Local Government.

* 31. *Removal of lunatic prisoners.*—(1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that Government, by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) When it appears to the Local Government that the prisoner has become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which he was removed or to another prison within the territories subject to the same Local Government, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section 9 of Act XXXVI of 1858† (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, the Governor-General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and

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* This section was substituted for the original s. 31 by Act X of 1886, s. 25, printed in General Acts, 1885-88, Ed. 1889.

† Printed in General Acts, 1834-66, Ed. 1887.

the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor-General in Council.

* 32. *Removal of prisoners from territories under one Local Government to territories under another.*—When any person is, or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882,† the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of confinement in British India.

VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

‡ 33. *Governor-General in Council to appoint places to which persons sentenced to transportation shall be sent.*—The Governor-General in Council may, from time to time, appoint places within British India to which persons sentenced to transportation shall be sent;

Local Government to direct removal of such persons to places appointed.—And the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

34. *Power to make rules as to convicts.*—The Governor-General in Council may, from time to time, prescribe rules as to the following matters:—

the classification of convicts;

their confinement, treatment, discipline and employment;

their punishment for misbehaviour, disorderly conduct, neglect or disobedience; and

the manner in which the proceeds (if any) of their employment shall be disposed of.

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* This section was, by Act VII of 1894, s. 7, substituted for the s. 32 enacted by Act X of 1886, s. 25.

† For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.

‡ This section was substituted for the original s. 33 by Act IX of 1882, s. 2, printed in General Acts, 1882, Part I, Ed. 1885.

VII.—Discharge of Convicts.

35. *Discharge of convicts recommended for pardon.*—Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four,* may, in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

SCHEDULE.

[Acts repealed.]

Repealed by Act XII of 1873.

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* Printed in the Collection of Statutes relating to India, Vol. II, Ed. 1881.

PRISONERS' TESTIMONY ACT.

ACT No. XV OF 1869.

Passed by the Governor-General of India in Council.

(RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE 4TH JUNE 1869.)

An Act to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.

Preamble.—Whereas it is expedient to provide facilities for obtaining the evidence and appearance in Court of prisoners and for service of process upon them; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. *Short title.*—This Act may be called "The Prisoners' Testimony Act, 1869."

2. *Presidency Small Cause Courts.*—For the purposes of this Act, the Courts of Small Causes established within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay;

Police Magistrates.—And the Courts of persons exercising the powers of a Magistrate of Police within the same limits, shall be deemed to be respectively subordinate to the said High Courts.

PART II.

BRINGING UP PRISONERS.

3. *Criminal Courts may make orders under Act.*—Any Criminal Court not inferior to the Court of a Subordinate Magistrate of the first class may in its discretion, if it appear that the testimony of any person confined in any jail situate within the local limits of its appellate jurisdiction, if the Criminal Court be a High Court, or, if it be not a High Court, then

within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter depending in such Criminal Court, or if a charge of an offence against such person is made or pending, make an order in the form in schedule A or schedule B (as the case may be) to this Act annexed, directed to the officer in charge of the said jail.

4. *Civil Courts may make orders under Act.*—Any Civil Court may in its discretion, if it appear that the testimony of any person confined in any jail situate within the local limits of its appellate jurisdiction, if the Civil Court be a High Court, or, if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter depending in such Civil Court, make an order in the form in the said schedule A, directed to the officer in charge of the said jail.

5. *Court to countersign orders.*—When such order is made in any civil matter pending in a Court subordinate to the Court of the District Judge, or in any Court of Small Causes situate outside the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal, Madras and Bombay, it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until the same shall have been submitted to, and countersigned by, such Judge, or the District Judge within the local limits of whose jurisdiction such Court of Small Causes is situate.

Statement of facts necessitating order.—Every order so submitted shall be accompanied by a statement under the hand of the Judge of the facts which in his opinion render such order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

6. *Order to be transmitted through Magistrate of the District in which the person is confined.*—When any person for whose attendance an order as hereinbefore mentioned shall be made is confined in any District other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it shall have been made or countersigned to the Magistrate of the District or division of a District in which the said person is confined, and such Magistrate shall cause it to be delivered to the officer in charge of the jail in which such person is confined.

7. *Order by High Court for removal of person confined more than 100 miles from place where his evidence is required.*—In any case in which a person is confined in a jail within the

local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature at Fort William, Madras and Bombay, or in a jail more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or Presiding officer of the Court in which the evidence is so required shall, if he think it expedient that such person should be removed under this Act for the purpose of giving evidence in such Court, and if the said jail is situate within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the same High Court, and such High Court may, if it think fit, make an order in the form in the said schedule A, directed to the officer in charge of the said jail.

The High Court making the order shall send it to the Magistrate of the District or division of a District in which the person named therein is confined, and such Magistrate shall cause the order to be delivered to the officer in charge of the jail in which such person is confined.

For the purposes of this section and sections 3 and 4, the Chief Commissioner of British Burma shall be deemed to be a High Court: the Court of a Recorder appointed under Act No. XXI of 1863 shall be deemed to be subordinate to the said Chief Commissioner; and every jail situate in British Burma shall be deemed to be situate within the local limits of the said Chief Commissioner's appellate jurisdiction.

8. *Persons confined beyond limits of appellate jurisdiction of High Court.*—In any case in which a person is confined within a jail situate beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he think it expedient that such person should be removed under this Act, for the purpose of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the Local Government within the territories subject to which the said jail is situate; and such Government may, if it think fit, direct that such person shall be so removed, subject to such rules regulating the escort of such prisoners as the Governor-General of India in Council may from time to time prescribe.

To obtain the removal of a person confined in a jail situate beyond the territories for the time being under the administration of the Chief Commissioner of British Burma for the purpose of giving evidence in any criminal matter in the Court of a Recorder appointed under the said Act No. XXI of 1863, such Recorder shall have the power conferred on a Judge of a High Court by the former part of this section, and

the other provisions of such part shall, *mutatis mutandis*, apply.

9. *Prisoners to be brought up.*—Upon delivery of any order under this Act to the officer in charge of the jail in which the person named therein is confined, such officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in such Court at the time in such order mentioned; and shall cause him to be detained in custody in or near the Court until he shall have been examined or until the Judge or presiding officer of such Court shall authorize him to be taken back to the jail in which he was confined.

10. *Power to Government to exempt certain prisoners from operation of Act.*—The Governor-General of India in Council or the Local Government may, from time to time, by notification in the official Gazette, direct that any person or any class of persons shall not be removed from the jail in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Act, other than those contained in sections twelve, thirteen and fourteen, shall not apply to such person or class of persons.

11. *When jailor may disobey orders.*—When any person named in any order made under section 3, section 4, or section 7 appears to be from sickness or other infirmity unfit to be removed, the officer in charge of the jail in which he is confined shall apply to the Magistrate of the District or division of a District in which such jail is situate, and if such Magistrate shall by writing under his hand declare himself to be of opinion that such person is from infirmity unfit to be removed;

or when any person named in any such order is under committal for trial;

or under a remand pending trial or pending a preliminary investigation;

or when any such person is in custody for a period which would expire before the expiration of the time required for removing him under this Act and for taking him back to the jail in which he is confined;

then and in every such case the officer in charge of the jail shall abstain from obeying such order, and shall send to the Court from which the order has been issued, a statement of his reason for not obeying the same:

Provided that the said officer shall not so abstain when the order has been made under section three,

and the person named in the order is confined under committal for trial or under a remand pending trial or pending a

preliminary investigation, and does not appear to be from sickness or other infirmity unfit to be removed,

and the place where his evidence is required is not more than five miles distant from the jail in which he is confined.

PART III.

COMMISSIONS.

12. *Commission for examination of prisoners.*—Whenever it shall appear to any Civil Court that the evidence of a person confined in any jail situate within the local limits of the appellate jurisdiction of such Court, if it be a High Court, or, if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who for any of the causes mentioned in section ten or section eleven cannot be brought up before it, is material in any matter depending before such Court,

and whenever it shall appear to any such Court that the evidence of a person confined in any jail so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter,

and in any case in which the District Judge shall under section five have declined to countersign the order for removal,

the Court may, if it think fit, issue a commission under the provisions of the Code of Civil Procedure for the examination of such person in the jail in which he is confined.

13. *Commission for examination of prisoners beyond limits of appellate jurisdiction of High Court.*—Whenever it shall appear to any High Court that the evidence of a person confined in a jail situate beyond the local limits of its appellate jurisdiction is material in any civil matter depending before such Court, or before any Court subordinate thereto, the High Court may, if it think fit, issue a commission under the provisions of the Code of Civil Procedure for the examination of such person in the jail in which he is confined.

14. *Commission how to be directed.*—Every commission issued under section twelve or section thirteen shall be directed to the District Court of the District wherein the jail in which such person is confined is situate, and such Court shall commit the execution of the commission to the officer in charge of such jail, or to such other person as the Court thinks fit.

PART IV.

SERVICE OF PROCESS ON PRISONERS.

15. *Process how served on prisoners.*—When any process directed to any person confined in any jail is issued from any

Court, the same may be served by exhibiting to the officer in charge of such jail or prison the original of such process, and by depositing with him a copy thereof.

16. *Process served to be transmitted at prisoner's request.*—Every officer in charge of a jail upon whom any such service as is mentioned in section fifteen shall be made, shall, as soon as may be, cause the copy of the process so deposited with him to be shown and explained to the prisoner to whom it is directed, and shall thereupon endorse upon such process a certificate signed by him that the prisoner to whom the process is directed is a prisoner in the jail under his charge, and that he has received a copy thereof.

Such certificate shall be sufficient *primâ facie* evidence of the service of such person; and if the prisoner requests that the said copy be sent to any other person, and provides the cost of so sending it, the said officer shall cause the same to be so sent through the Post Office by registered letter.

PART V.

MISCELLANEOUS.

17. *Deposit of costs.*—No order in any civil matter shall be made by a Court under any of the provisions hereinbefore contained, until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court:

Provided that if upon any application for such order it appear to the Court to which the application is made that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by Government from any person ordered by the Court to pay the same, as if it were costs of suit recoverable under the Code of Civil Procedure.

18. *Power to make rules.*—It shall be lawful for the Local Government, and in cases arising under section eight, for the Governor-General of India in Council, to make rules consistent with this Act—

(1) for regulating the escort of prisoners to and from the Court in which their presence is required;

(2) for regulating the amount to be allowed for the costs and charges of such escort; and

(3) for the guidance of officers in all other matters connected with the enforcement of this Act;

and from time to time to alter and add to the rules so made.

19. *Publication of rules.*—All such rules, alterations and additions shall be published in the official Gazette, and shall, from the date of such publication, be deemed to have the force of law.

20. *Power to declare who shall be deemed officer in charge of jail.*—The Local Government may also declare in each case what officer shall, for the purposes of this Act, be deemed to be 'the officer in charge of the jail.'

SCHEDULE A.

Court of

To the officer in charge of the (*state name of jail*)

You are hereby required to have the body of , now a prisoner in under safe and sure conduct before the at on the day of next by of the clock in the forenoon of the same day, there to give testimony in a cause now pending before [*or* in a certain charge or prosecution now pending before against *or as the case may be*] . and, after the said shall then and there have given his testimony before the said or the said shall dispense with his further attendance, cause him to be conveyed under safe and sure conduct back to the said jail.

day of

A. B.

(Countersigned) *C. D.*

SCHEDULE B.

Court of

To the officer in charge of the (*state name of jail*)

You are hereby required to have the body of , now a prisoner in under safe and sure conduct before the at on the day of next by of the clock in the forenoon of the same day, there to answer a charge now pending before and, after such charge shall have been disposed of or the said shall dispense with his further attendance, cause him to be conveyed under safe and sure conduct back to the said jail.

day of

A. B.

(Countersigned) *C. D.*

POLICE ACT

ACT No. V OF 1861.*

(RECEIVED THE GOVERNOR-GENERAL'S ASSENT ON THE 22ND MARCH, 1861.)

An Act for the Regulation of Police.

[AS MODIFIED UP TO THE 1ST MARCH, 1895.]

Preamble.—Whereas it is expedient to re-organize the Police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows :—

1. *Interpretation-clause.*—The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say :—

The words "Magistrate of the district" shall mean the chief officer charged with the executive administration of a district

* Act V of 1861 has been applied to Upper Burma generally (except the Shan States) by Act XX of 1886, s. 6 (Burma Code, Ed. 1889, p. 364); to the Sonthal Parganas by Reg. III of 1872, s. 3, as amended by Reg. III of 1886 (Bengal Code, Vol. I, Ed. 1889, p. 597); to the Arakan Hill District by Reg. IX of 1874, s. 3 (Burma Code, Ed. 1889, p. 354); to British Baluchistan by Reg. I of 1890, s. 3 (Baluchistan Code, Ed. 1890, p. 69); and to Angul and the Khondmals by Reg. I of 1894, s. 3.

The Act has been declared, under the Scheduled Districts Act, 1874, to be in force in the following Scheduled Districts, namely, the districts of Hazaribagh, Lohardugga and Manbhoom and Pergunnah Dalbhoom and the Kolhan in the District of Singbhoom (see *Gazette of India*, 1881, Part I, p. 504). It has been extended, under the same Act, to the Kumaon and Garhwal Districts (see *Gazette of India*, 1891, Part I, p. 185), and (with the exception of ss. 1, 3, 5, 6, 8, 11, 21, 28, 33, 43, 46 and 47) to the Scheduled District of Coorg (see *Gazette of India*, 1888, Part I, pp. 88 and 323).

As to the Police-force in Bengal, see Bengal Act VII of 1869 (in Bengal Code, Vol. II, Ed. 1890, p. 129), which is to be read and taken as part of Act V of 1861.

As to the relaxation of the provisions of Act V of 1861 which restrict the employment of Police-officers to the presidency, province or place of the Police-establishment of which they are members, see Act III of 1888, in General Acts, 1885-88, Ed. 1889, p. 191.

and exercising the powers of a Magistrate, by whatever designation the chief officer charged with such executive administration is styled :

The word "Magistrate" shall include all persons within the general Police-district, exercising all or any of the powers of a Magistrate :

The word "Police" shall include all persons who shall be enrolled under this Act :

The words "general Police-district" shall embrace any presidency, province or place, or any part of any presidency, province or place, in which this Act shall be ordered to take effect :

* The words "District Superintendent" and "District Superintendent of Police" shall include any Assistant District Superintendent or other person appointed by general or special order of the Local Government to perform all or any of the duties of a District Superintendent of Police under this Act in any district :*

The word "property" shall include any moveable property, money or valuable security :

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Words importing the masculine gender shall include females :

The word "person" shall include a company or corporation :

The word "month" shall mean a calendar month :

The word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

†2. *Constitution of the force.*—The entire Police-establishment under a Local Government shall, for the purposes of this Act, be deemed to be one Police-force, and shall be formally enrolled ; and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time to time be ordered by the Local Government, subject to the sanction of the Governor-General of India in Council.

3. *Superintendence in the Local Government.*—The Superintendence of the Police throughout a general Police-district shall vest in and, subject to the general control of the Governor-General of India in Council, shall be exercised by

* This portion was inserted by Act VIII of 1895, s. 1.

† Section 2, so far as it relates to the provinces under the control of the Lieutenant-Governor of Bengal, was repealed by Ben. Act VIII of 1869 (printed, Bengal Code, Vol. II, Ed. 1890, p. 129).

the Local Government to which such district is subordinate; and, except as authorized under the provisions of this Act, no person, officer or Court shall be empowered by the Local Government to appoint, supersede or control any Police-functionary.

4. *Inspector-General of Police, &c.*—The administration of the Police throughout a general Police-district shall be vested in an officer to be styled the Inspector-General of Police, and in such Deputy Inspectors-General and Assistant Inspectors-General as to the Local Government shall seem fit.

The administration of the Police throughout the local jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the Local Government shall consider necessary.

The Inspector-General and other officers abovementioned shall from time to time be appointed by the Local Government, and may be removed by the same authority.

5. *Powers of Inspector-General.*—The Inspector-General of Police shall have the full powers of a Magistrate throughout the general Police-district; *Exercise of powers*—But shall exercise those powers subject to such limitation as may from time to time be imposed by the Local Government.

6. [*Magisterial powers of Police-officers.*] *Repealed by Act X of* 1882.

7. *Appointment, dismissal, etc., of inferior officers.*—The appointment of all Police-officers other than those mentioned in section 4 of this Act shall, under such rules as the Local Government shall from time to time sanction, rest with the Inspector-General, Deputy Inspectors-General, Assistant Inspectors-General and District Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend or reduce any Police-officer whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same;

* or may award any one or more of the following punishments to any Police-officer who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely:

(*a*) fine to any amount not exceeding one month's pay;

(*b*) confinement to quarters for a term not exceeding fifteen days, with or without punishment drill, extra guard, fatigue or other duty;

* This portion was substituted for the original words by Act VIII of 1895, s. 2.

(*c*) deprivation of good-conduct pay;
(*d*) removal from any office of distinction or special emolument.*

8. *Certificates to Police-officers.*—Every Police-officer so appointed shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector-General or such other officer as the Inspector-General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a Police-officer.

† *Surrender of certificate.*—Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a Police-officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

† A Police-officer shall not by reason of being suspended from office cease to be a Police-officer. During the term of such suspension the powers, functions and privileges vested in him as a Police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.

9. *Police-officer not to resign without leave or two months' notice.*—No Police-officer shall be at liberty to withdraw himself from the duties of his office, unless expressly allowed to do so by the District Superintendent or by some other officer authorised to grant such permission, or, without the leave of the District Superintendent, to resign his office, unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign.

10. *Police-officers not to engage in other employment.*—No Police-officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector-General.

11. [*Police Superannuation fund.*] *Repealed by Act XVI of* 1874

12. *Power of Inspector-General to make rules.*—The Inspector-General of Police may from time to time, subject to the approval of the Local Government, frame such orders

* This portion was substituted for the original words by Act VIII of 1895, s. 2.

† These paragraphs were substituted for the original paragraph by Act VIII of 1895, s. 3.

rules as he shall deem expedient relative to the organization, classification and distribution of the Police-force, the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the Police-force as the Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

13. *Additional Police-officers employed at cost of individuals.*—It shall be lawful for the Inspector-General of Police, or any Deputy Inspector-General, or Assistant Inspector-General, or for the District Superintendent, subject to the general direction of the Magistrate of the district, on the application of any person showing the necessity thereof, to depute any additional number of Police-officers to keep the peace at any place within the general Police-district, and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application:

Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General, Deputy Inspector-General, or Assistant Inspector-General, or to the District Superintendent, to require that the Police-officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

14. *Appointment of additional force in the neighbourhood of railway and other works.*—Whenever any railway, canal or other public work, or any manufactory or commercial concern, shall be carried on or be in operation in any part of the country, and it shall appear to the Inspector-General that the employment of an additional Police-force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Inspector-General, with the consent of the Local Government, to depute such additional force to such place, and to employ the same so long as such necessity shall continue, and to make orders, from time to time, upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so

rendered necessary, and such person shall thereupon cause payment to be made accordingly.

* 15. (1) *Quartering of additional Police in disturbed or dangerous districts.*—It shall be lawful for the Local Government, by proclamation to be notified in the official Gazette, and in such other manner as the Local Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of Police.

(2) It shall thereupon be lawful for the Inspector-General of Police, or other officer authorized by the Local Government in this behalf, with the sanction of the Local Government, to employ any Police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

(3) Subject to the provisions of sub-section (5) of this section, the cost of such additional Police-force shall be borne by the inhabitants of such area described in the proclamation.

(4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(5) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

(6) Every proclamation issued under sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Local Government may in each case think fit to direct.

Explanation.—For the purposes of this section, "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein.

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* This section was substituted for the original s. 15 by Act VIII of 1895, s. 4.

*15A. (1) *Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land.*—If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the subdivision of a district within such area is situated.

(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Local Government, after such enquiry as he may deem necessary, and whether any additional Police-force has or has not been quartered in such area under the last preceding section, to—

(*a*) declare the persons to whom injury has been caused by or has ensued from such misconduct;

(*b*) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and

(*c*) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section:

Provided that the Magistrate shall not make any declaration or assessment under this sub-section, unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

(3) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.

(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub-section (2) shall be subject to revision by the Commissioner of the Division or the Local Government, but save as aforesaid shall be final.

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

(6) *Explanation.*—In this section the word "inhabitants" shall have the same meaning as in the last preceding section.

* Section 15A was inserted by Act VIII of 1895, s. 5.

*16. (1) *Recovery of moneys payable under sections* 13, 14, 15 *and* 15A, *and disposal of same when recovered.*—All moneys payable under sections 13, 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by sections 386 and 387 of the Code of Criminal Procedure, 1882,† for the recovery of fines, or by suit in any competent Court.

(2) All moneys paid or recovered under sections 13, 14 and 15 shall be credited to a fund to be called "The General Police Fund" and shall be applied to the maintenance of the Police-force under such orders as the Local Government shall pass.

(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section.

17. *Special Police-officers.*—When it shall appear that any unlawful assembly, or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the Police-force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly, or riot or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any Police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such Police-officer may require to act as special Police-officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

18. *Powers of special Police-officers.*—Every special Police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of Police.

19. *Refusal to serve as special Police-officers.*—If any person being appointed a special Police-officer as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be

* This section was substituted for the original s. 16 by Act VIII of 1895, s. 6.

† For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.

liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

*20. *Authority to be exercised by Police-officers.*—Police-officers enrolled under this Act shall not exercise any authority, except the authority provided for a Police-officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.†

21. *Village Police-officers.*—Nothing in this Act shall affect any hereditary or other village Police-officer, unless such officer shall be enrolled as a Police-officer under this Act. When so enrolled, such officer shall be bound by the provisions of the last preceding section. No hereditary or other village Police-officer shall be enrolled without his consent and the consent of those who have the right of nomination.

Police-chaukidars in the Presidency of Fort William.—If any Police-officer appointed under Act XX of 1856 ‡ (*to make better provision for the appointment and maintenance of Police-chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*) is employed out of the district for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that district.

22. *Police-officers always on duty and may be employed in any part of district.*—Every Police-officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a Police-officer in any part of the general Police-district.

23. *Duties of Police-officers.*—It shall be the duty of every Police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists: and it shall be lawful for every Police-officer, for any of the

* For some cases in which the application of s. 20 has been restricted, see Reg. II of 1883 (Assam), ss. 2, 3; Act XV of 1887 (Burma), s. 11; and Act XI of 1889 (Burma), s. 101.

† See now Act X of 1882, a Revised Edition of which, as modified up to 15th December, 1888, has been published by the Legislative Department.

‡ Printed in Punjab Code, Ed. 1888, p. 15; N.-W. P. and Oudh Code, Ed. 1892, p. 78; Ajmere Code, Ed. 1893, p. 27.

purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house or other place of resort of loose and disorderly characters.

24. *Police-officers may lay information, etc.*—It shall be lawful for any Police-officer to lay any information before a Magistrate, and to apply for a summons, warrant, search-warrant or such other legal process as may by law issue against any person committing an offence.*

25. *Police-officers to take charge of unclaimed property, and be subject to Magistrate's orders as to disposal.*—It shall be the duty of every Police-officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the district.

The Police-officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the district.

26. (1) *Magistrate may detain property and issue proclamation.*—The Magistrate of the district may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

†(2) The provisions of section 525 of the Code of Criminal Procedure, 1882, shall be applicable to property referred to in this section.

‡27. (1) *Confiscation of property if no claimant appears.*—If no person shall within the period allowed claim such property, or the proceeds thereof, if sold, it may, if not already sold under sub-section (2) of the last preceding section, be sold under the orders of the Magistrate of the district.

(2) The sale-proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 26 to which no claim has been established shall be at the disposal of Government.

28. *Persons refusing to deliver up certificate, etc., on ceasing to be Police-officers.*—Every person, having ceased to be an enrolled Police-officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable,

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* Words repealed by Act X of 1882 are omitted.

† This sub-section was added by Act VIII of 1895, s. 7.

‡ This section was substituted for the original s. 27 by Act VIII of 1895, s. 8.

on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both.

29. *Penalties for neglect of duty, etc.*—Every Police-officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months,* or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave,* or who shall engage without authority in any employment other than his Police-duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, for a period not exceeding three months, or to both.

†30. (1) *Regulation of public assemblies and processions, and licensing of same.*—The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the district, or of the subdivision of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

(3) On such application being made he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to the section: Provided that no fee shall be charged on the application for, or grant of, any such license.

(4) *Music in the streets.*—He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.

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* These words were added by Act VIII of 1895, s. 9.

† This section was substituted for the original s. 30 by Act VIII of 1895, s. 10.

*30A. (1) *Powers with regard to assemblies and processions violating conditions of license.*—Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any Police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly.

31. *Police to keep order in public roads, etc.*—It shall be the duty of the Police to keep order on the Public roads, and in the public streets, thoroughfares, ghâts and landing-places, and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets, or in the neighbourhood of places of worship, during the time of public worship, and in any case when any road, street, thoroughfare, ghât or landing-place may be thronged or may be liable to be obstructed.

32. *Penalty for disobeying orders issued under last three sections, etc.*—Every person opposing or not obeying the orders issued under the last three† preceding sections or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

33. *Saving of control of Magistrate of district.*—Nothing in the last four‡ preceding sections shall be deemed to interfere with the general control of the Magistrate of the district over the matters referred to therein.

34. *Punishment for certain offence on roads, etc.*—Any person who, on any road or in any § open place or § street or thoroughfare within the limits of any town|| to which this section shall be specially extended by the Local Government, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger or damage

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* Section 30A. was inserted by Act VIII of 1895, s. 11.
† "Three" was substituted for "two" by Act VIII of 1895, s. 12.
‡ "Four" was substituted for "three" by Act VIII of 1895, s. 12.
§ These words were inserted by Act VIII of 1895, s. 13.
|| "Town" here includes a cantonment—see Act XIII of 1889, s. 12 (2).

of the * residents or passengers, * shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment not exceeding eight days; *Power of Police-officers.*—And it shall be lawful for any Police-officer to take into custody, without a warrant, any person who within his view commits any of such offences namely :—

FIRST. *Slaughtering cattle, furious riding, etc.*—Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle :

SECOND. *Cruelty to animals.*—Any person who wantonly or cruelly beats, abuses or tortures any animal :

THIRD. *Obstructing passengers.*—Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public :

FOURTH. *Exposing goods for sale.*—Any person who exposes any goods for sale :

FIFTH. *Throwing dirt into street.*—Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials; or who constructs any cowshed, stable or the like, or who causes any offensive matter to run from any house, factory, dung-heep or the like :

SIXTH. *Being found drunk or riotous.*—Any person who is found drunk or riotous or who is incapable of taking care of himself :

SEVENTH. *Indecent exposure of person.*—Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself or by bathing or washing in any tank or reservoir not being a place set apart for that purpose.

EIGHTH. *Neglect to protect dangerous places.*—Any person who neglects to fence in or duly to protect, any well, tank or other dangerous place or structure.

† 35. *Jurisdiction.*—Any charge against a Police-officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a Magistrate.

36. *Power to prosecute under other law not affected.*—Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or

* These words were substituted for the original words by Act VIII of 1895, s. 13.

† Words repealed by Act X of 1882 are omitted.

Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act:

Proviso.—Provided that no person shall be punished twice for the same offence.

*37. *Recovery of penalties and fines imposed by Magistrates.*—The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code, † and of sections 386 to 389, both inclusive, of the Code of Criminal Procedure, 1882, ‡ with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before a Magistrate.

Provided that, notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.

38. [*Procedure until return is made to warrant of distress.*] *Repealed by Act VIII of* 1895, *s.* 14.

39. [*Imprisonment if distress not sufficient.*] *Repealed by Act VIII of* 1895, *s.* 14.

40. [*Levy of fines from European British subjects.*] *Repealed by Act VIII of* 1895, *s.* 14.

41. *Rewards to Police and informers payable to General Police Fund.*—All sums paid for the service of process by Police-officers, and all rewards, forfeitures and penalties, or shares of rewards, forfeitures and penalties, which by law are payable to informers, shall, when the information is laid by a Police-officer, be paid into the General Police Fund. §

42. *Limitation of actions.—All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general Police-powers hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise* ||; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District

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* This section was substituted for the original ss. 37, 38, 39 and 40 by Act VIII of 1895, s. 14.

† For Act XLV of 1860, see the Revised Edition, as modified up to 1st August, 1890, published by the Legislative Department.

‡ For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.

§ See as to this fund, s. 16, *supra*.

|| So much of s. 42 as relates to the limitation of suits was repealed by Act IX of 1871.

Superintendent of the district in which the act was committed, one month at least before the commencement of the action.

Tender of Amends.—No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action.

Proviso.—Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

43. *Plea that act was done under warrant.*—When any action or prosecution shall be brought or any proceedings held against any Police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine:

Proviso.—Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

44. *Police-officers to keep diary.*—It shall be the duty of every officer in charge of a Police-station to keep a general diary in such form as shall, from time to time, be prescribed by the Local Government, and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined.

The Magistrate of the district shall be at liberty to call for and inspect such diary.

45. *Local Government may prescribe form of returns.*—The Local Government may direct the submission of such returns by the Inspector-General and other Police-officers as to such Local Government shall seem proper, and may prescribe the form in which such returns shall be made.

*46.. (1) *Scope of Act.*—This Act shall not by its own operation take effect in any presidency, province or place.† But the Governor-General in Council, by an order to be published in the *Gazette of India*, may extend the whole or any part of this Act to any presidency, province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, province or place

(2) When the whole or any part of this Act shall have been so extended, the Local Government may from time to time, by notification in the official gazette, make rules consistent with this Act—

(*a*) to regulate the procedure to be followed by Magistrates and Police-officers in the discharge of any duty imposed upon them by or under this Act ;

(*b*) to prescribe the time, manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon ; and,

(*c*) generally, for giving effect to the provisions of this Act.

(3) All rules made under this Act may from time to time be amended, added to or cancelled by the Local Government.

47. *Authority of District Superintendent of Police over Village-police.*—It shall be lawful for the Local Government, in carrying this Act into effect in any part of the territories subject to such Local Government, to declare that any authority which now is or may be exercised by the Magistrate of the district over any Village-watchman or other Village-police-officer for the purposes of Police, shall be exercised, subject to the general control of the Magistrate of the district, by the District Superintendent of Police.

FORM.

(*See section* 8.)

A. B. has been appointed a member of the Police-force under Act V of 1861, and is vested with the powers, functions and privileges of a Police-officer.

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* This section was substituted for the original s. 46 by Act VIII of 1895, s. 15. As to orders issued under the former s. 46, see s. 16 of that Act.

† In the Madras and Bombay Presidencies there are special Police Acts—see Act XXIV of 1859, and Bombay Acts VII of 1867 and IV of 1890.

WHIPPING ACT.

ACT No. VI of 1864.

Passed by the Governor-General of India in Council.

(Received the assent of the Governor-General on the 18th February, 1864.)

An Act to authorize the punishment of whipping in certain cases.*

[As modified up to the 1st March, 1895.]

Preamble.—Whereas it is expedient that in certain cases offenders should be liable under the provisions of the Indian Penal Code,† to the punishment of whipping; It is enacted as follows:—

1. *Whipping added to the punishments described in section 53 of the Penal Code.*—In addition to the punishments described in section 53 of the Indian Penal Code,† offenders are also liable to whipping under the provisions of the said Code.

‡ 2. *Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.*—Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code,† that is to say:—

Group A.

(1) theft, as defined in section 378 of the said Code;

(2) theft in a building, tent or vessel, as defined in section 380 of the said Code;

* As to punishment of whipping for certain offences in the Gáro Hills, the Khási and Jaintiá Hills, and the Nágá Hills Districts—see Reg. III of 1875. As to punishment of whipping for certain offences in places in which the Punjab Frontier Crimes Regulation, 1887, is in force—see Reg. IV of 1887, ss. 1 (3), 8 and 14 (2), in Punjab Code, Ed. 1888, p. 393, and Reg. IV of 1889, s. 2.

† For Act XLV of 1860, see the Revised Edition, as modified up to 1st August, 1890, published by the Legislative Department.

‡ The ss. 2, 3 and 4 here printed were substituted for the original ss. 2 3 and 4 by Act III of 1895, s. 5.

(Section 3.)

(3) theft by a clerk or servant, as defined in section 381 of the said Code;

(4) theft after preparation for causing death or hurt, as defined in section 382 of the said Code;

Group B.

(5) extortion by threat, as defined in section 388 of the said Code;

(6) putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code;

Group C.

(7) dishonestly receiving stolen property, as defined in section 411 of the said Code;

(8) dishonestly receiving property stolen in the commission of a dacoity, as defined in section 412 of the said Code;

Group D.

(9) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;

(10) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

*3. *On second conviction of offence mentioned in section 2, whipping may be added to other punishment.*—Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence or of any offence included in the same Group of offences, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.†

*4. *Offences punishable, in case of second conviction, with whipping in addition to other punishment.*—Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, or of any offence included in the same Group of offences, may be

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* See foot-note ‡ on last preceding page.

† For Act XLV of 1860, see the Revised Edition, as modified up to 1st August, 1890, published by the Legislative Department.

punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, * that is to say :—

Group A.

(1) giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code ; *

(2) giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in section 194 of the said Code ;

(3) giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code ;

Group B.

(4) falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the said Code ;

Group C.

(5) assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in section 354 of the said Code ;

(6) rape, as defined in section 375 of the said Code ;

(7) unnatural offences, as defined in section 377 of the said Code ;

Group D.

(8) robbery or dacoity, as defined in sections 390 and 391 of the said Code ;

(9) attempting to commit robbery, as defined in section 393 of the said Code ;

(10) voluntarily causing hurt in committing robbery, as defined in section 394 of the said Code ;

Group E.

(11) habitually receiving or dealing in stolen property, as defined in section 413 of the said Code ;

Group F.

(12) forgery, as defined in section 463 of the said Code ;

(13) forgery of a document, as defined in section 466 of the said Code ;

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* For Act XLV of 1860, see the Revised Edition, as modified up to 1st August, 1890, published by the Legislative Department.

(14) forgery of a document, as defined in section 467 of the said Code;

(15) forgery for the purpose of cheating, as defined in section 468 of the said Code;

(16) forgery for the purpose of harming the reputation of any person, as defined in section 469 of the said Code;

Group G.

(17) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;

(18) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

5. *Juvenile offenders punishable with whipping for offences not punishable with death.*—Any juvenile offender who commits any offence which is not by the Indian Penal Code* punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

† *Explanation.*—In this section the expression "juvenile offender" means an offender who in the opinion of the Court is under sixteen years of age, the decision of the Court on such matter being final and conclusive.

‡ 6. *When offences specified in section* 4 *may be punished with whipping in Frontier Districts.*—Whenever any Local Government shall by notification in the official Gazette have declared the provisions of this section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such Local Government, any person who shall in such district or tract of country after such notification as aforesaid commit any of the offences specified in section 4 of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.*

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* For Act XLV of 1860, see the Revised Edition, as modified up to 1st August, 1890, published by the Legislative Department.

† This *Explanation* was added by Act III of 1895, s. 6.

‡ This s. 6 does not apply to Upper Burma (see Act XX of 1886, s. 6, in Burma Code, Ed. 1889, p. 364), or to hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied (see Reg. 1 of 1895, ss. 1 (3) and 3 (1)). The revised sections applicable thereto are printed in the Appendix, *infra*.

7. [*Exemption of females and certain convicts.*] *Repealed by Act X of* 1882.

8. [*Certain classes of Magistrates to be specially empowered.*] *Repealed by Act X of* 1872.

9, 10. [*Time and mode of whipping.*] *Repealed by Act XVI of* 1874.

11, 12. [*Punishment not to be inflicted if offender not in fit state of health, nor by instalments; Procedure in certain cases.*] *Repealed by Act X of* 1872.

APPENDIX.

I. Section 6 of Act VI of 1864, as in force in Upper Burma (except the Shan States), runs as follows [see Act XX of 1883, s. 7 (1), *(c)* *] :—

"6. (1) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the schedule to this Act or of any offence which the Local Government, with the previous sanction of the Governor-General in Council, may add to that schedule, may be punished with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(2) The Local Government may at any time suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor-General in Council, remove the suspension of its operation."

"THE SCHEDULE.

(*See section* 6, *sub-section* (1)).

Section of Indian Penal Code.	Offence.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.

* Printed in Burma Code, Ed. 1889, p. 365.

"THE SCHEDULE—*contd.*

Section of Indian Penal Code.	Offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.
440	Mischief committed after preparation made for causing death or hurt, etc.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, etc.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

"THE SCHEDULE—*concld.*

Section of Indian Penal Code.	Offence.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc,
506	Criminal intimidation, if threat be to cause death or grievous hurt, etc.
	Abetment of any of the foregoing offences.
	Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences."

II. Section 6 of Act VI of 1864 as applicable to hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied, runs as follows [see Reg. I of 1895, ss. 1 (3) and 3 (1)]:—

"Notwithstanding anything in the foregoing sections of this Act, a person convicted of any offence may be punished with whipping in lieu of, or in addition to, any other punishment to which he may be liable."

BREACH OF CONTRACT ACT.

ACT No. XIII OF 1859.

Passed by the Legislative Council of India.

(RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE 4TH MAY, 1859.)

An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Labourers in certain cases.

[As affected by Act No. XVI of 1874.]

Preamble.—Whereas much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several Presidency Towns of Calcutta, Madras and Bombay, and in other places, from fraudulent breach of contract on the part of artificers, workmen, and labourers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the Civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment; It is enacted as follows:—

1. *If workman neglect to perform work, on account of which he has received an advance of money, complaint may be made to the Magistrate.*—When any artificer, workman, or labourer shall have received from any master or employer resident or carrying on business in any Presidency Town, or from any person acting on behalf of such master or employer, an advance of money on account of any work which he shall have contracted to perform, or to get performed by any other artificers, workmen, or labourers, if such artificer, workman, or labourer shall wilfully and without lawful or reasonable excuse neglect or refuse to perform or get performed such work according to the terms of his contract, such master or employer or any such person as aforesaid may complain to a Magistrate of Police, and the Magistrate shall thereupon issue a summons or a warrant, as he shall think proper, for

bringing before him such artificer, workman, or labourer, and shall hear and determine the case.

2. *Magistrate may order repayment of advance or performance of contract.*—If it shall be proved to the satisfaction of the Magistrate that such artificer, workman, or labourer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such artificer, workman or labourer to repay the money advanced or such part thereof as may seem to the Magistrate just and proper, or order him to perform, or get performed, such work according to the terms of his contract; *Penalty if workman fail to comply with the order.*—And if such artificer, workman, or labourer shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labour for a term not exceeding three months, or if the order be for the repayment of a sum of money, for a term not exceeding three months or until such sum of money shall be sooner repaid; provided that no such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any civil remedy by action or otherwise which he might have had but for this Act.

3. *Magistrate may require workman to give security for due performance of order.*—When the Magistrate shall order any artificer, workman, or labourer to perform or get performed any work according to the terms of his contract, he may also at the request of the complainant require such artificer, workman, or labourer to enter into a recognizance with sufficient security for the due performance of the order; and in default of his entering into such recognizance or furnishing such security to the satisfaction of the Magistrate, may sentence him to be imprisoned with hard labour for a period not exceeding three months.

4. *To what contracts the Act extends.*—The word "contract," as used in this Act, shall extend to all contracts and agreements whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

5. *Act may be extended by Government.*—This Act may be extended by the Governor-General of India in Council, or by the Executive Government of any Presidency or place, to any place within the limits of their respective jurisdictions. In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such Officer or Officers as shall be specially appointed by Government to exercise such powers.

FOREIGN EXTRADITION ACT

ACT No. XXI OF 1879.*

Passed by the Governor-General of India in Council.

(RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE 14TH NOVEMBER, 1879.)

An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

[As modified up to the 1st May, 1896.]

Preamble.—Whereas by treaty, capitulation, agreement, grant, usage, sufferance and other lawful means the Governor-General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor-General in Council; and whereas doubts having arisen how far the exercise of such power and jurisdiction, and the delegation thereof, were controlled by and dependent on the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872,† was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India,

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* Act XXI of 1879 has been declared in force in—

The Sonthal Parganas by Reg. III of 1872, s. 3, as amended by Reg. III of 1886 [Bengal Code, Vol. I, Ed. 1889, p. 597];

Upper Burma generally (except the Shan States) by Act XX of 1886, s. 6 [Burma Code, Ed. 1889, p. 364];

British Baluchistan by Reg. I of 1890, s. 3 [Baluchistan Code, Ed. 1890, p. 69]; and

Angul and the Khondmals, Reg. I of 1894, s. 3.

It has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Districts of Hazaribagh, Lohardugga and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum [*Gazette of India*, 1881, Part I, p. 504].

† Act XI of 1872 is repealed by s. 2 of this Act.

and to the extradition of criminals ; and whereas it is expedient to repeal that Act and re-enact it with the amendments hereinafter appearing ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title.*—This Act may be called "The Foreign Jurisdiction and Extradition Act, 1879" :

Extent.—It extends to the whole of British India ;

to all Native Indian subjects of Her Majesty beyond the limits of British India ; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty ;

Commencement.—And it shall come into force on the passing thereof.

Saving of other laws and of treaties.—But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders ; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

2. *Repeal.*—The Foreign Jurisdiction and Extradition Act, 1872, is repealed ; but all existing appointments, delegations, certificates, requisitions and rules made, and all existing notifications, summonses, warrants, orders, and directions issued under that Act shall, in so far as they are consistent herewith, be deemed to have been respectively made and issued hereunder.

3. *Interpretation-clause.*—In this Act, unless there is something repugnant in the subject or context,—

Political Agent.—"Political Agent" means and includes—

(1) the principal officer representing the British Indian Government in any territory or place peyond the limits of British India :

(2) any* officer of the Government of India or of any Local Government* appointed by the Governor-General in Council or* the Local Government* to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India ; and

"*European British subject.*"—"European British subject" means a European British subject as defined in the Code of Criminal Procedure, 1882.†

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* These words were substituted for the original words by Act V of 1896, s. 1.

† The reference to Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department).

CHAPTER II.

POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

4. *Exercise of powers of Governor-General in places beyond British India and delegation thereof.*—The Governor-General in Council may exercise any power or jurisdiction which he for the time being has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor-General in Council from time to time thinks fit.

5. *Notification of exercise or delegation of such powers.*—A notification in the *Gazette of India* of the exercise by the Governor-General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

6. *Appointment, powers and jurisdiction of Justices of the Peace.*—The Governor-General in Council may appoint any European British subject, either by name or by virtue of his office,* to be a Justice of the Peace in or for any such country or place;* and every such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure, 1882,† on Magistrates of the first class who are Justices of the Peace and European British subjects.

The Governor-General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.‡

7. *Confirmation of existing Political Agents and Justices.*—All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April, 1872, by the Governor-

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* These words were substituted for the original words by Act XII of 1891. The amendment is to have effect as from the commencement of Act XXI of 1879—see s. 2 (3) of Act XII of 1891.

† The reference to Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department).

‡ As to trial of European British subjects in British India for offences committed in Native States—see Act X of 1882, s. 188.

General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

8. *Extension of criminal law of British India to British subjects out of British India.*—The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor-General in Council from time to time directs, extend—

(*a*) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and

(*b*) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

CHAPTER III.

INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

9, 10. [*Liability of British subjects for offences committed out of British India; Political Agent to certify fitness of inquiry into charge: Power to direct copies of depositions and exhibits to be received in evidence.*] *Repealed by Act X of* 1882, *s.* 2 *and Sch.* I (*b*); *see now ss.* 188 *to* 190 *of that Act.*

CHAPTER IV.

EXTRADITION.

11. *Arrest and removal of persons other than European British subjects escaping into British India.*—When an offence has been committed or is supposed to have been committed in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant—

if such Political Agent thinks that the offence is one which ought to be inquired into in such State;

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code* mentioned in the schedule

* For Act XLV of 1860, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor-General in Council by a notification in the *Gazette of India*.

*The act of desertion from any body of Imperial Service Troops shall be deemed to be an offence in respect of which the Political Agent for the State to which such troops belong may issue a warrant under this section.

12. *Direction and execution of warrant.*—Such warrant may be directed to the Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants ;† and the accused person, when arrested, shall,‡ unless released on bail in accordance with the provisions of the next following section,‡ be forwarded to the place and delivered to the officer named in the warrant.

§12A. *Power to Political Agent to direct security to be taken and procedure thereon.*—A Political Agent issuing a warrant for the arrest of any person under section 11 may in his discretion direct by endorsement thereon that, if such person executes a bond with sufficient sureties for his attendance before the officer mentioned in the warrant at a specified time, the Magistrate to whom the warrant is directed shall take such security and release such person from custody.

The endorsement shall state (*a*) the number of sureties (if any), (*b*) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (*c*) the time and place at which he is to attend before the officer mentioned in the warrant.

Whenever security is taken under this section, the Magistrate shall certify the fact to the Political Agent by whom the warrant was issued, and shall retain the bond.

§12B. *Arrest on breach of bond to appear.*—If the person bound by any bond executed under the last foregoing section to appear before the officer mentioned therein does not so appear, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and delivered over to such officer.

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* This paragraph was added by Act V of 1896, s. 2.

† See now Act X of 1882, Ch. VIB, a reprint of which, as modified up to 15th December, 1888, has been published by the Legislative Department.

‡ These words were inserted by Act V of 1896, s. 3.

§ Sections 12A, 12B and 12C were inserted by Act V of 1896, s. 4.

*12C. *Application of sections* 513 *and* 514, *Act X*, 1882.—In the case of every bond required to be executed or which may have been executed in accordance with the foregoing provisions, the powers conferred by sections 513 and 514 of the Code of Criminal Procedure, 1882,† on the Court which has required the execution of or has taken a bond may be exercised by the Magistrate.

13. *Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.*—Such Political Agent may either dispose of the case himself, or, if he is generally or specially directed to do so by the Governor-General in Council, or by the Governor of the Presidency of Fort St. George in Council or by the Governor of the Presidency of Bombay in Council, may give over the person so forwarded, whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed‡ or, in the case of a deserter, by a duly constituted Military Court.‡

14. *Requisitions for extradition by the Executive of any part of British dominions or Foreign Power.*—Whenever a requisition is made to the Governor-General in Council or any Local Government by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor-General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall inquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and

* Section 12A, 12B and 12C were inserted by Act V of 1896, s. 4.

† For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.

‡ These words were added by Act V of 1896, s. 5.

removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section 189* of the Code of Criminal Procedure, 1882,* shall apply to inquiries held under this section.

15. *Magistrate may in certain cases issue warrant for arrest of person accused of having committed an offence out of British India.*—Whenever any person accused or suspected of having committed an offence out of British India is within the local limits of the jurisdiction of a Magistrate in British India, and it appears to such Magistrate that the Political Agent for any State could, under the provisions of section 11, issue a warrant for the arrest of such person, or that the persons for the time being administering the executive government of any part of the dominions of Her Majesty or the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Magistrate to inform Political Agent or Local Government.—Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

16. *Person arrested to be released after certain time if not proceeded against.*—No person arrested on a warrant issued by a Magistrate under section 15 shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section 11 from the Political Agent for any State for the delivery of such person, or an order with reference to him under section 14 from the Governor-General in Council or Local Government, or such person is in accordance with law delivered up to some Foreign Prince or State.

At any time before the receipt of such a warrant or order the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

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* The reference to s. 10 of Act XXI of 1879 has been altered in accordance with Act X of 1882, s. 3. (For Act X of 1882, see the Revised Edition, as modified up to 15th December, 1888, published by the Legislative Department.)

17. *Bail.*—The provisions of the Code of Criminal Procedure, 1882, in respect of bail* shall apply in the case of any person arrested under section 15 in the same manner as if such person were accused of committing in British India the offence with which he is charged.

† 17A. *Detention of persons arrested under section* 54, *clause seventhly, Act X*, 1882.—Notwithstanding anything in the Code of Criminal Procedure, 1882, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 15 of this Act.

CHAPTER V.

MISCELLANEOUS.

18. *Power to make rules.*—The Governor-General in Council may, from time to time, make rules to provide for—

(1) the confinement, diet and prison-discipline of British subjects, European or Native, imprisoned by Political Agents under this Act ;

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them ; and

(3) generally to carry out the purposes of this Act.

19. *Execution of commissions issued by Foreign Criminal Courts.*—The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, Chapter XXV ;‡ and the provisions of that chapter shall be construed as if the term " suit " included a proceeding against a criminal :

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

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* See Act X of 1882, s. 3, and Chapter XXXIX, a reprint of which, as modified up to 15th December, 1888, has been published by the Legislative Department.

† Section 17A was added by Act V of 1896, s. 6.

‡ This reference should now be read as applying to Act XIV of 1882—see s. 3 of that Act. (For Act XIV of 1882, see the Revised Edition, as modified up to 1st July, 1888, published by the Legislative Department.)

THE SCHEDULE.

SECTIONS OF THE INDIAN PENAL CODE * REFERRED TO IN SECTION 11.

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* For Act XLV of 1860, see the Revised Edition, as modified up to 1st May, 1896, published by the Legislative Department.

INDIAN EXTRADITION ACT.

ACT No. IX of 1895.

Passed by the Governor-General of India in Council.

(Received the assent of the Governor-General on the 7th March, 1895.)

An Act to confer on Presidency Magistrates and District Magistrates certain powers and authorities in relation to the surrender of fugitive criminals.

Whereas by the Extradition Act, 1870, it is, among other things, enacted that the said Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession, but with the following among other modifications, namely :—

No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorized or required to be done under the said Act by, the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone ;

And whereas by the said Act it is also enacted that, if by any law or ordinance made before or after the passing of the said Act by the Legislature of any British possession provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or are suspected of being in such possession, Her Majesty may, by the Order in Council applying the said Act in the case of any foreign State, or by any subsequent order, either –

suspend the operation within any such British possession of the said Act or any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer,

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act ;

And whereas the said Extradition Act, 1870, was amended by the Extradition Act, 1873, which enacted that that Act was to be construed as one with the said Act of 1870, and that the said two Acts might be cited together as the Extradition Acts, 1870 and 1873;

And whereas it is expedient to provide for the more convenient administration in British India of the said Extradition Acts, 1870 and 1873, by conferring on Presidency Magistrates and District Magistrates the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in Police Magistrates and Justices of the Peace in the United Kingdom;

It is hereby enacted as follows:—

1. (1) *Title and commencement.*—This Act may be called "The Extradition (India) Act, 1895"; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf:

Provided that no such date shall be appointed until after Her Majesty has been pleased by Order in Council to direct that this Act shall have effect in British India as if it were part of the Extradition Act, 1870, and such Order has been published in the *Gazette of India*.

2. *Powers of Police Magistrates and Justices of Peace under Imperial Acts conferred on Presidency and District Magistrates.*—All powers vested in, and acts authorized or required to be done by, a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals in the United Kingdom under the Extradition Acts, 1870 and 1873, are hereby vested in, and may in British India be exercised and done by, any Presidency Magistrate or District Magistrate in relation to the surrender of fugitive criminals under the said Acts.

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